

APPENDIX

TO THE HISTORY OF THE TWELFTH CONGRESS.

[FIRST SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

GREAT BRITAIN.

Communicated to Congress by the Messages of November 5, and 14, 1811; January 16, 17, March 16, June 1, 4, 8, 11, 15, 16, and 22, 1812; and November 4, 1812.

To the Senate and House of Representatives of the United States :

I communicate to Congress copies of a correspondence between the Envoy Extraordinary and Minister Plenipotentiary of Great Britain and the Secretary of State, relative to the aggression committed by a British ship of war on the United States' frigate Chesapeake; by which it will be seen that that subject of difference between the two countries is terminated by an offer of reparation, which has been acceded to.

JAMES MADISON.

NOVEMBER 13, 1811.

To the Senate and House of Representatives of the United States :

I communicate to Congress a letter from the Envoy Extraordinary and Minister Plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

The continued evidence afforded in this correspondence, of the hostile policy of the British Government against our national rights, strengthens the considerations recommending and urging the preparation of adequate means for maintaining them.

JAMES MADISON.

JANUARY 16, 1812.

To the Senate and House of Representatives of the United States :

I lay before Congress a letter from the Envoy Extraordinary and Minister Plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

JAMES MADISON.

JANUARY 17, 1812.

To the Senate and House of Representatives of the United States :

I lay before Congress a letter from the Envoy Extraordinary and Minister Plenipotentiary of Great Britain to the Secretary of State.

JAMES MADISON.

MARCH 13, 1812.

To the Senate and House of Representatives of the United States :

I communicate to Congress certain documents, being a continuation of those heretofore laid before them, on the subject of our affairs with Great Britain.

Without going back beyond the renewal, in 1803, of the war in which Great Britain is engaged, and omitting unrepaid wrongs of inferior magnitude, the conduct of her Government presents a series of acts hostile to the United States as an independent and neutral nation.

British cruisers have been in the continued practice of violating the American flag on the great highway of nations, and of seizing and carrying off persons sailing under it, not in the exercise of a belligerent right, founded on the law of nations against an enemy, but of a municipal prerogative over British subjects. British jurisdiction is thus extended to neutral vessels, in a situation where no laws can operate but the law of nations, and the laws of the country to which the vessels belong; and a self-redress is assumed, which, if British subjects were wrongfully detained and alone concerned, is that substitution of force for a resort to the responsible sovereign, which falls within the definition of war. Could the seizure of British subjects, in such cases, be regarded as within the exercise of a belligerent right, the acknowledged laws of war, which forbid an article of captured property to be adjudged, without a regular investigation before a competent tribunal, would imperiously demand the fairest trial, where the sacred rights of persons were at issue. In place of such a trial, these rights are subjected to the will of every petty commander.

The practice, hence, is so far from affecting British subjects alone, that, under the pretext of searching for these, thousands of American citizens, under the safeguard of public law and of their national flag, have been torn from their country, and from everything dear to them; have been dragged on board ships of war of a foreign nation; and exposed, under the severities of their discipline, to be exiled to the most distant and

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deadly climes, to risk their lives in the battles of their oppressors, and to be the melancholy instruments of taking away those of their own brethren.

Against this crying enormity, which Great Britain would be so prompt to avenge if committed against herself, the United States have in vain exhausted remonstrances and expostulations. And that no proof might be wanting of their conciliatory dispositions, and no pretext left for a continuance of the practice, the British Government was formally assured of the readiness of the United States to enter into arrangements, such as could not be rejected if the recovery of British subjects were the real and the sole object. The communication passed without effect.

British cruisers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harass our entering and departing commerce. To the most insulting pretensions they have added the most lawless proceedings in our very harbors, and have wantonly spilt American blood within the sanctuary of our territorial jurisdiction. The principles and rules enforced by that nation, when a neutral nation, against armed vessels of belligerents hovering near her coasts, and disturbing her commerce, are well known. When called on, nevertheless, by the United States, to punish the greater offences committed by her own vessels, her Government has bestowed on their commanders additional marks of honor and confidence.

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases, to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British Government, declaring, as the true definition of a legal blockade, "that particular ports must be actually invested, and previous warning given to vessels bound to them not to enter."

Not content with the occasional expedients for laying waste our neutral trade, the Cabinet of Great Britain resorted, at length, to the sweeping system of blockades, under the name of Orders in Council, which has been moulded and managed as might best suit its political views, its commercial jealousies, or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was, that the orders were reluctantly adopted by Great Britain, as a necessary retaliation on decrees of her enemy, proclaiming a general blockade of the British isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded,

without effect, that her own prior blockades, unsupported by an adequate naval force actually applied and continued, were a bar to this plea: that executed edicts against millions of our property could not be retaliation on edicts confessedly impossible to be executed; that retaliation, to be just, should fall on the party setting the guilty example, not on an innocent party, which was not even chargeable with an acquiescence in it.

When deprived of this flimsy veil, for a prohibition of our trade with her enemy, by the repeal of his prohibition of our trade with Great Britain, her Cabinet, instead of a corresponding repeal, or a practical discontinuance of its orders, formally avowed a determination to persist in them against the United States, until the markets of her enemy should be laid open to British products; thus asserting an obligation on a neutral Power to require one belligerent to encourage, by its internal regulations, the trade of another belligerent; contradicting her own practice towards all nations, in peace as well as in war; and betraying the insincerity of those professions which inculcated a belief that, having resorted to her orders with regret, she was anxious to find an occasion for putting an end to them.

Abandoning still more all respect for the neutral rights of the United States, and for its own consistency, the British Government now demands, as prerequisites to a repeal of its orders, as they relate to the United States, that a formality should be observed on the repeal of the French decrees, nowise necessary to their termination, nor exemplified by British usage; and that the French repeal, besides including that portion of the decrees which operate within a territorial jurisdiction, as well as that which operates on the high seas, against the commerce of the United States, should not be a single and special repeal in relation to the United States, but should be extended to whatever other neutral nations, unconnected with them, may be affected by those decrees. And, as an additional insult, they are called on for a formal disavowal of conditions and pretensions advanced by the French Government, for which the United States are so far from having made themselves responsible, that in official explanations, which have been published to the world, and in a correspondence of the American Minister at London with the British Minister for Foreign Affairs, such a responsibility was explicitly and emphatically disclaimed.

It has become, indeed, sufficiently certain, that the commerce of the United States is to be sacrificed, not as interfering with the belligerent rights of Great Britain, not as supplying the wants of her enemies, which she herself supplies, but as interfering with the monopoly which she covets for her own commerce and navigation. She carries on a war against the lawful commerce of a friend, that she may the better carry on a commerce with an enemy; a commerce polluted by the forgeries and perjuries which are, for the most part, the only passports by which it can succeed.

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Anxious to make every experiment short of the last resort of injured nations, the United States have withheld from Great Britain, under successive modifications, the benefits of a free intercourse with their market; the loss of which could not but outweigh the profits accruing from her restrictions of our commerce with other nations. And to entitle these experiments to the more favorable consideration, they were so framed as to enable her to place her adversary under the exclusive operation of them. To these appeals her Government has been equally inflexible, as if willing to make sacrifices of every sort rather than yield to the claim of justice, or renounce the errors of a false pride. Nay, so far were the attempts carried to overcome the attachment of the British Cabinet to its unjust edicts, that it received every encouragement, within the competency of the Executive branch of our Government, to expect that a repeal of them would be followed by a war between the United States and France, unless the French edicts should also be repealed. Even this communication, although silencing forever the plea of a disposition in the United States to acquiesce in those edicts, originally the sole plea for them, received no attention.

If no other proof existed of a predetermination of the British Government against a repeal of its orders, it might be found in the correspondence of the Minister Plenipotentiary of the United States at London, and the British Secretary for Foreign Affairs, in 1810, on the question whether the blockade of May, 1806, was considered as in force, or as not in force. It had been ascertained that the French Government, which urged this blockade as the ground of its Berlin decree, was willing, on the event of its removal, to repeal that decree, which being followed by alternate repeals of the other offensive edicts, might abolish the whole system on both sides. This inviting opportunity for accomplishing an object so important to the United States, and professed so often to be the desire of both the belligerents, was made known to the British Government. As that Government admits that an actual application of an adequate force is necessary to the existence of a legal blockade, and it was notorious that if such a force had ever been applied, its long discontinuance had annulled the blockade in question, there could be no sufficient objection on the part of Great Britain to a formal revocation of it; and no imaginable objection to a declaration of the fact, that the blockade did not exist. The declaration would have been consistent with her avowed principles of blockade, and would have enabled the United States to demand from France the pledged repeal of her decree, either with success, in which case the way would have been opened for a general repeal of the belligerent edicts; or without success, in which case the United States would have been justified in turning their measures exclusively against France. The British Government would, however, neither rescind the blockade, nor declare its non-existence to be inferred and affirmed by the American Plenipotentiary. On the contrary, by representing the block-

ade to be comprehended in the Orders in Council, the United States were compelled so to regard it, in their subsequent proceedings.

There was a period when a favorable change in the policy of the British Cabinet was justly considered as established. The Minister Plenipotentiary of His Britannic Majesty here proposed an adjustment of the differences more immediately endangering the harmony of the two countries. The proposition was accepted with the promptitude and cordiality corresponding with the invariable professions of this Government. A foundation appeared to be laid for a sincere and lasting reconciliation. The prospect, however, quickly vanished. The whole proceeding was disavowed by the British Government, without any explanations which could, at that time, repress the belief that the disavowal proceeded from a spirit of hostility to the commercial rights and prosperity of the United States. And it has since come into proof, that at the very moment when the public Minister was holding the language of friendship, and inspiring confidence in the sincerity of the negotiation with which he was charged, a secret agent of his Government was employed in intrigues, having for their object a subversion of our Government, and a dismemberment of our happy Union.

In reviewing the conduct of Great Britain towards the United States, our attention is necessarily drawn to the warfare just renewed by the savages, on one of our extensive frontiers; a warfare which is known to spare neither age nor sex, and to be distinguished by features peculiarly shocking to humanity. It is difficult to account for the activity and combinations which have for some time been developing themselves among tribes in constant intercourse with British traders and garrisons, without connecting their hostility with that influence, and without recollecting the authenticated examples of such interpositions heretofore furnished by the officers and agents of that Government.

Such is the spectacle of injuries and indignities which have been heaped on our country, and such the crisis which its unexampled forbearance and conciliatory efforts have not been able to avert. It might at least have been expected that an enlightened nation, if less urged by moral obligations, or invited by friendly dispositions on the part of the United States, would have found, in its true interest alone, a sufficient motive to respect their rights and their tranquillity on the high seas; that an enlarged policy would have favored that free and general circulation of commerce, in which the British nation is at all times interested, and which, in times of war, is the best alleviation of its calamities to herself, as well as to other belligerents; and more especially that the British Cabinet would not, for the sake of a precarious and surreptitious intercourse with hostile markets, have persevered in a course of measures, which necessarily put at hazard the invaluable market of a great and growing country, disposed to cultivate the mutual advantages of an active commerce.

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Other councils have prevailed. Our moderation and conciliation have had no other effect than to encourage perseverance, and to enlarge pretensions. We behold our seafaring citizens still the daily victims of lawless violence, committed on the great common and highway of nations, even within sight of the country which owes them protection. We behold our vessels freighted with the products of our soil and industry, or returning with the honest proceeds of them, wrested from their lawful destinations, confiscated by prize courts, no longer the organs of public law, but the instruments of arbitrary edicts; and their unfortunate crews dispersed and lost, or forced or inveigled in British ports into British fleets; whilst arguments are employed in support of these aggressions, which have no foundation, but in a principle equally supporting a claim to regulate our external commerce in all cases whatsoever.

We behold, in fine, on the side of Great Britain, a state of war against the United States; and on the side of the United States, a state of peace towards Great Britain.

Whether the United States shall continue passive under these progressive usurpations, and these accumulating wrongs, or, opposing force to force in defence of their national rights, shall commit a just cause into the hands of the Almighty Disposer of events, avoiding all connexions which might entangle it in the contests or views of other Powers, and preserving a constant readiness to concur in an honorable re-establishment of peace and friendship, is a solemn question, which the Constitution wisely confides to the Legislative Department of the Government. In recommending it to their early deliberations, I am happy in the assurance that the decision will be worthy the enlightened and patriotic councils of a virtuous, a free, and a powerful nation.

Having presented this view of the relations of the United States with Great Britain, and of the solemn alternative growing out of them, I proceed to remark, that the communication last made to Congress, on the subject of our relations with France, will have shown, that since the revocation of her decrees, as they violated the neutral rights of the United States, her Government has authorized illegal captures by its privateers and public ships; and that other outrages have been practised on our vessels and our citizens. It will have been seen, also, that no indemnity had been provided, or satisfactorily pledged, for the extensive spoliations committed under the violent and retrospective orders of the French Government against the property of our citizens seized within the jurisdiction of France. I abstain, at this time, from recommending to the consideration of Congress definitive measures with respect to that nation, in the expectation that the result of unclosed discussions between our Minister Plenipotentiary at Paris and the French Government will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honor of our country.

JUNE 1, 1812.

JAMES MADISON.

*To the Senate and House of
Representatives of the United States:*

I transmit, for the information of Congress, copies of a correspondence of the Minister Plenipotentiary of Great Britain, with the Secretary of State.

JAMES MADISON.

JUNE 4, 1812.

*To the Senate and House of
Representatives of the United States:*

I lay before Congress copies of letters which have passed between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of Great Britain.

JAMES MADISON.

JUNE 8, 1812.

*To the Senate and House of
Representatives of the United States:*

I transmit, for the information of Congress, copies of letters which have passed between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of Great Britain.

JAMES MADISON.

JUNE 11, 1812.

*To the Senate and House of
Representatives of the United States:*

I transmit, for the information of Congress, copies of letters which have passed between the Secretary of State and the Envoy Extraordinary and Minister Plenipotentiary of Great Britain.

JAMES MADISON.

JUNE 15, 1812.

*To the Senate and House of
Representatives of the United States:*

I transmit, for the information of Congress, copies of a letter to the Secretary of State from the Chargé des Affaires of the United States at London, accompanied by a letter from the latter to the British Minister of Foreign Affairs.

JAMES MADISON.

JUNE 16, 1812.

*To the Senate and House of
Representatives of the United States:*

I communicate to Congress copies of a letter to the Secretary of State from the Chargé des Affaires of the United States at London, and of a note to him from the British Secretary for Foreign Affairs.

JAMES MADISON.

JUNE 22, 1812.

*I.—Correspondence between the Minister or Chargé
d'Affaires of the United States at London and the
Secretary of State.*

Mr. Pinkney to the Secretary of State.

LONDON, January 17, 1811.

SIR: I had the honor to receive, on the 5th instant, while I was confined by a severe illness, your letter of the 15th of November, and, as

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soon as I was able, prepared a note to Lord Wellesley in conformity with it.

On the 3d instant, I had received a letter from Lord Wellesley, bearing date the 29th ultimo, on the subjects of the Orders in Council and the British blockades, to which I was anxious to reply, at the same time that I obeyed the orders of the President signified in your letter above mentioned. I prepared an answer accordingly, and sent it in with the other note, and a note of the 15th, respecting two American schooners lately captured on their way to Bordeaux, for a breach of the Orders in Council. Copies of all these papers are enclosed.

My answer to Lord Wellesley's letter was written under the pressure of indisposition, and the influence of more indignation than could well be suppressed. His letter proves, what scarcely required proof, that if the present Government continue, we cannot be friends with England. I need not analyze it to you.

I am still so weak as to find it convenient to make this letter a short one, and will therefore only add that I have derived great satisfaction from your instructions of the 15th of November, and have determined to return to the United States in the Essex. She will go to L'Orient for Mr. Grayson, and then come to Cowes for me and my family. I calculate on sailing about the last of February. The choice of a *Chargé d'Affaires* embarrasses me exceedingly, but I will do the best I can. The despatches by the Essex were delivered to me by Lieutenant Rodgers on Sunday. I have the honor to be, &c.

WM. PINKNEY.

ROBERT SMITH, Esq., &c.

[Referred to in Mr. Pinkney's letter of January 17.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, December 29, 1810.

SIR: In acknowledging the receipt of your letter of the 10th instant, I must express my regret that you should have thought it necessary to introduce into that letter any topics which might tend to interrupt the conciliatory spirit in which it is the sincere disposition of His Majesty's Government to conduct every negotiation with the Government of the United States.

From an anxious desire to avoid all discussions of that tendency, I shall proceed without any further observation to communicate to you the view which His Majesty's Government has taken of the principal question which formed the object of my inquiry during our conference on the 5th instant. The letter of the French Minister for Foreign Affairs to the American Minister at Paris of the 9th of August, 1810, did not appear to His Majesty's Government to contain such a notification of the repeal of the French decrees of Berlin and Milan as could justify His Majesty's Government in repealing the British Orders in Council. The letter states "that the decrees of Berlin and Milan are revoked, and that from the first of November, 1810, they will cease to be in force; it being understood that in consequence of this declaration the English shall

revoke their Orders in Council, and renounce the new principles of blockade which they have attempted to establish."

The purport of this declaration appeared to be that the repeal of the decrees of Berlin and Milan would take effect from the 1st of November, provided that Great Britain, antecedently to that day, and in consequence of this declaration, should revoke the Orders in Council, and should renounce those principles of blockade which the French Government alleged to be new. A separate condition relating to America seemed also to be contained in this declaration, by which America might understand that the decrees of Berlin and Milan would be actually repealed on the 1st of November, 1810, provided that America should resent any refusal of the British Government to renounce the new principles of blockade, and to revoke the Orders in Council.

By your explanation it appears that the American Government understands the letter of the French Minister as announcing an absolute repeal on the 1st of November, 1810, of the French decrees of Berlin and Milan, which repeal, however, is not to continue in force unless the British Government, within a reasonable time after the first of November, 1810, shall fulfil the two conditions stated distinctly in the letter of the French Minister. Under this explanation, if nothing more had been required from Great Britain for the purpose of securing the continuance of the repeal of the French decrees than the repeal of our Orders in Council, I should not have hesitated to declare the perfect readiness of this Government to fulfil that condition. On these terms the British Government has always been sincerely disposed to repeal the Orders in Council. It appears, however, not only by the letter of the French Minister, but by your explanation, that the repeal of the Orders in Council will not satisfy either the French or the American Government. The British Government is further required by the letter of the French Minister to renounce those principles of blockade which the French Government alleges to be new. A reference to the terms of the Berlin decree will serve to explain the extent of this requisition. The Berlin decree states that Great Britain extends the right "of blockade to commercial unfortified towns, and to ports, harbors, and mouths of rivers, which, according to the principles and practice of all civilized nations, is only applicable to fortified places." On the part of the American Government, I understand you to require that Great Britain should revoke her order of blockade of May, 1806. Combining your requisition with that of the French Minister, I must conclude that America demands the revocation of that order of blockade as a practical instance of our renunciation of those principles of blockade which are condemned by the French Government. Those principles of blockade Great Britain has asserted to be ancient, and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If

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the Berlin and Milan decrees are to be considered as still in force, unless Great Britain shall renounce these established foundations of her maritime rights and interests, the period of time is not yet arrived when the repeal of her Orders in Council can be claimed from her, either with reference to the promise of this Government, or to the safety and honor of the nation. I trust that the justice of the American Government will not consider that France, by the repeal of her obnoxious decrees under such a condition, has placed the question in that state which can warrant America in enforcing the non-intercourse act against Great Britain, and not against France. In reviewing the actual state of this question, America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French Government. Nor can America reasonably expect that the system of violence and injustice now pursued by France with unremitted activity, (while it serves to illustrate the true spirit of her intentions,) should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations arising from the letter of the French Minister, and from that with which you have honored me, it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If, either by the terms of the original decree to which the French Minister's letter refers, or by any other authentic document, you can prove that the decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her Orders in Council, I shall receive any such information with most sincere satisfaction, desiring you to understand that the British Government retains an anxious solicitude to revoke the Orders in Council as soon as the Berlin and Milan decrees shall be effectually repealed, without conditions injurious to the maritime rights and honor of the United Kingdom.

I have the honor to be, with great respect, &c.
WELLESLEY.

[Referred to in Mr. Pinkney's despatch of Jan. 17.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
January 14, 1811.

MY LORD: I have received the letter which you did me the honor to address me on the 29th of last month, and will not fail to transmit a copy of it to my Government. In the mean time, I take the liberty to trouble you with the following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topics introduced into my letter of the 10th of December were intimately connected with the principal subject, and fairly used to illustrate and explain it; and, consequently, if they had not the good fortune to be acceptable to your Lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of invasions of the rights of the United States which it necessarily reviewed, and of the apparent reluctance of the British Government to forbear those invasions in future. I do not know that I could more carefully have abstained from whatever might tend to disturb the spirit which your Lordship ascribes to His Majesty's Government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have been very surprising nor very culpable, perhaps, if I had wholly forgotten to address myself to a spirit of conciliation which had met the most equitable claims with steady and unceasing repulsion, which had yielded nothing that could be denied, and had answered complaints of injury by multiplying their causes. With this forgetfulness, however, I am not chargeable; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the second paragraph, I must observe, that the forbearance which it announces might have afforded some gratification if it had been followed by such admissions as my Government is entitled to expect, instead of a further manifestation of that disregard of all its demands by which it has so long been wearied. It has never been my practice to seek discussions, of which the tendency is merely to irritate; but, I beg your Lordship to be assured, that I feel no disposition to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny and conduct that infringes them.

If I comprehend the other parts of your Lordship's letter, they declare, in effect, that the British Government will repeal nothing but the Orders in Council, and that it cannot, at present, repeal even them, because, in the first place, the French Government has required, in the letter of the Duke of Cadore to General Armstrong of the 5th of August, not only that Great Britain shall revoke those orders, but that she shall renounce certain principles of the blockade (supposed to be explained in the preamble to the Berlin decree) which France alleges to be new; and, in the second place, because the American Government has (as you conclude) demanded the revocation of the British order of blockade of May, 1806, as a practical instance of that same renunciation; or, in other words, has made itself a party, not openly, indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true that the American Government has required as indispensable, in the view of its acts of intercourse and non-intercourse, the

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annulment of the British blockade of May, 1806; and, further, that it has, through me, declared its confident expectation that other blockades of a similar character (including that of the island of Zealand) will be discontinued. But by what process of reasoning your Lordship has arrived at the conclusion that the Government of the United States intended, by this requisition, to become the champion of the edict of Berlin, to fashion its principles by those of France while it affected to adhere to its own, and to act upon some partnership in doctrines which it would fain induce you to acknowledge, but could not prevail upon itself to avow, I am not able to conjecture. The frank and honorable character of the American Government justifies me in saying, that, if it had meant to demand of Great Britain an abjuration of all such principles as the French Government may think fit to disapprove, it would not put your Lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its Minister, but would have told you so in explicit terms. What I have to request of your Lordship, therefore is, that you will take our views and principles from our own mouths; and that neither the Berlin decree, nor any other act of any foreign State, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American Government professes, and upon the foundation of which it has repeatedly protested against the order of May, 1806, and the other kindred innovations of these extraordinary times, have already been so clearly explained to your Lordship in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity, you will find them supported by a strength of argument and a weight of authority of which they scarcely stand in need, in the papers which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve, but I must avail myself of this opportunity to call your Lordship's attention a second time, in a particular manner to one of the papers to which my letter of September refers. I allude to the copy of an official note of the 12th of April, 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadeloupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself, in maintenance of rules which have been respected and upheld in all seasons and on all occasions by the Government of the United States. I will leave it, therefore, to your Lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any French document for the opinions of the American Government on the matter of it.

The steady fidelity of the Government of the United States to its opinions on that interesting subject is known to every body. The same principles which are found in the letter of Mr. Madi-

son to Mr. Thornton of the 27th of October, 1803, already before you, were asserted in 1799 by the American Minister at this Court, in his correspondence with Lord Grenville respecting the blockade of some of the ports of Holland; were sanctioned in a letter of the 20th of September, 1800, from the Secretary of State of the United States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe and the special mission of 1806; have been maintained by the United States against others as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October, 1801, from Mr. Secretary Madison to Mr. Charles Pinckney, then American Minister at Madrid; and, finally, were adhered to by the United States when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and, when recalled to your remembrance, I am not without hopes that the strong grounds of law and right on which they stand will be as apparent to your Lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete, with regard to States at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging, in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the Power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice; that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the actual investment of a besieged place is the evidence by which we decide whether the siege, which may be commenced, raised, recommenced, and raised again, is continued or not; that, of course, a mere notification to a neutral Minister shall not be relied upon as affecting with knowledge of the actual existence of a blockade either his Government or its citizens; that a vessel, cleared or bound to a blockaded port, shall not be considered as violating, in any manner, the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it; that this view of the law, in itself perfectly correct, is peculiarly important to nations situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the actual state of their ports; that whole coasts and countries shall not be declared (for they can never be more than declared to be in a state of blockade, and thus the

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right of blockade converted into the means of extinguishing the trade of neutral nations ; and, lastly, that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world, so as to become the odious instrument of an unjust monopoly instead of a measure of honorable war.

These principles are too moderate and just to furnish any motive to the British Government for hesitating to revoke its Orders in Council and those analogous orders of blockade, which the United States expect to be recalled. It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent ; but if that be a sanguine calculation, (as I trust it is not,) it is still incontrovertible that a disinclination at this moment to acknowledge them can suggest no rational inducement for declining to repeal at once what every principle disowns, and what must be repealed at last.

With regard to the rules of blockade which the French Government expects you to abandon, I do not take upon me to decide whether they are such as your Lordship supposes them to be or not. Your view of them may be correct, but it may also be erroneous ; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such British blockades as the United States desire you to relinquish, you will not, I am sure, allege that it is any reason for adhering to them that France expects you to relinquish others. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in theories of the French Government, for which we are not responsible, and with which we have no concern. If, when you have done justice to the United States, your enemy should call upon you to go further, what shall prevent you from refusing ? Your free agency will in no respect have been impaired. Your case will be better in truth, and in the opinion of mankind, and you will be, therefore, stronger in maintaining it, provided that, in so doing, you resort only to legitimate means, and do not once more forget the rights of others while you seek to vindicate your own. Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of inquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had, would annihilate them. It cannot serve your interests ; for it tends to lessen the number of your friends, without adding to your security against your enemies. You are required, therefore, to do right, and to leave the consequences to the future, when by doing right you have everything to gain and nothing to lose.

As to the Orders in Council, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their founda-

tion (such as it was) is gone the moment that measure is no longer in operation. But the Berlin decree is repealed ; and even the Milan decree, the successor of your Orders in Council, is also repealed. Why is it, then, that your orders have outlived those edicts, and they are still to oppress and harass as before ? Your Lordship answers that question explicitly enough, but not satisfactorily. You do not allege that the French decrees are not repealed ; but you imagine that the repeal is not to remain in force, unless the British Government shall, in addition to the revocation of its Orders in Council, abandon its system of blockade. I am not conscious of having stated, as your Lordship seems to think, that this is so ; and I believe in fact that it is otherwise ; even if it were admitted, however, the Orders in Council ought, nevertheless, to be revoked. Can "the safety and honor of the British nation" demand that these orders shall continue to outrage the public law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was at first invented for them is gone ? But you are menaced with a revival of the French system, and, consequently, may again be furnished with the same pretext ! Be it so ; yet still, as the system and the pretext are at present at an end, so of course should be your orders.

According to your mode of reasoning, the situation of neutral trade is hopeless indeed. Whether the Berlin decree exist or not, it is equally to justify your Orders in Council. You issued them before it was anything but a shadow, and by doing so, gave to it all the substance it could ever claim. It is at this moment nothing. It is revoked and has passed away, according to your own admission. You choose, however, to look for its re-appearance, and you make your own expectation equivalent to the decree itself. Compelled to concede that there is no anti-neutral French edict in operation upon the ocean, you think it sufficient to say that there will be such an edict you know not when ; and in the meantime you do all you can to verify your own prediction, by giving to your enemy all the provocation in your power to resume the decrees which he has abandoned.

For my part, my Lord, I know not what it is that the British Government requires, with a view to what it calls its safety and its honor, as an inducement to rescind its Orders in Council. It does not, I presume, imagine that such a system will be suffered to ripen into law. It must intend to relinquish it sooner or later, as one of those violent experiments, for which time can do nothing, and to which submission will be hoped in vain. Yet, even after the professed foundation of this mischievous system is taken away, another and another is industriously procured for it ; so that no man can tell at what time, or under what circumstance, it is likely to have an end. When realities cannot be found, possibilities supply their place ; and that, which was originally said to be retaliation for actual injury, becomes (if such a decision can be endured or imagined) retaliation

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for apprehended injuries, which the future may or may not produce, but which it is certain have no existence now. I do not mean to grant, for I do not think, that the edict of Berlin did at any period lend even a color of equity to the British Orders in Council with reference to the United States; but it might reasonably have been expected that they, who have so much relied upon it as a justification, would have suffered it and them to sink together. How this is forbidden by your safety or your honor remains to be explained, and I am not willing to believe that either the one or the other is inconsistent with the observance of substantial justice and with the prosperity and rights of peaceful States.

Although your Lordship has slightly remarked upon certain recent acts of the French Government, and has spoken in general terms of "the system of violence and injustice now pursued by France" as requiring "some precautions of defence on the part of Great Britain," I do not perceive that you deduce any consequence from these observations in favor of a perseverance in the Orders in Council. I am not myself aware of any edicts of France, which, now that the Berlin and Milan decrees are repealed, affect the rights of neutral commerce on the seas. And you will yourselves admit that, if any of the acts of the French Government, resting on territorial sovereignty, have injured, or shall hereafter injure, the United States, it is for them, and for them only, to seek redress. In like manner, it is for Great Britain to determine what precautions of defence those measures of France which you denominate unjust and violent, may render it expedient for her to adopt. The United States have only to insist that a sacrifice of their rights shall not be among the number of those precautions.

In reply to that passage of your letter which adverts to the American act of non-intercourse, it is only necessary to mention the Proclamation of the President of the United States of the 2d of November last, and the act of Congress, which my letter of the 21st of September communicated; and to add, that it is in the power of the British Government to prevent the non-intercourse from being enforced against Great Britain.

Upon the concluding paragraph of your letter I will barely observe, that I am not in possession of any document, which you are likely to consider as authentic, showing that the French decrees are absolutely revoked upon the single condition of the revocation of the British Orders in Council; but that the information, which I have lately received from the American Legation at Paris, confirms what I have already stated, and I think proven, to your Lordship, that those decrees are repealed, and have ceased to have any effect. I will now trespass on you no further than to suggest that it would have given me sincere pleasure to be enabled to say as much of the British Orders in Council, and of the blockades, from which it is impossible to distinguish them.

I have the honor to be, &c.

WILLIAM PINKNEY.

The MARQUIS OF WELLESLEY, &c.

12th CON. 1st SESS.—55

[Referred to in Mr. Pinkney's letter of January 17.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
January 14, 1811.

MY LORD: After a lapse of many months since I had the honor to receive and convey to my Government your Lordship's repeated assurances, written as well as verbal, (which you declined, however, to put into an official form,) "that it was your intention immediately to recommend the appointment of a Minister Plenipotentiary from the King to the United States," the British Government continues to be represented at Washington by a Chargé d'Affairs, and no steps whatever appear to have been taken to fulfil the expectation which the abovementioned assurances produced and justified.

In this state of things, it has become my duty to inform your Lordship, in compliance with my instructions, that the Government of the United States cannot continue to be represented here by a Minister Plenipotentiary.

As soon, therefore, as the situation of the King's Government will permit, I shall wish to take my leave, and return to America in the United States' frigate *Essex*, now at Plymouth, having first named, as I am specially authorized to do, a fit person to take charge of the affairs of the American Legation in this country.

WILLIAM PINKNEY.

The MARQUIS OF WELLESLEY, &c.

[Referred to in Mr. Pinkney's despatch of January 17.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
January 15, 1811.

MY LORD: I have the honor to inform you that it has been represented to me that two American vessels, (the schooner *Polly* and the schooner *Mary*), laden with codfish, and bound from Marblehead to Bordeaux, in France, have, since the 1st instant, been captured and brought into Plymouth, as prize, for an imputed breach of the British Orders in Council.

It is my duty to demand the restoration of these vessels and their cargoes to the American owners, together with compensation for their unjust detention, and liberty to resume the voyages which that detention has interrupted.

I have the honor to be, &c.

WILLIAM PINKNEY.

The MARQUIS OF WELLESLEY, &c.

Extract of a letter from Mr. Pinkney to the Secretary of State of the United States.

LONDON, Feb. 12, 1811.

I received, a few hours since, a letter from Lord Wellesley, (a copy of which is enclosed,) in answer to mine of the 14th ultimo, respecting the British Orders in Council and blockades.

[Referred to in Mr. Pinkney's despatch of Feb. 17.]

The Marquis of Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Feb. 11, 1811.

SIR: The letter which I had the honor to receive from you, under date of the 14th of January

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1811, has been submitted to His Royal Highness the Prince Regent.

In communicating to you the orders which I have received from His Royal Highness on the subject of your letter, I am commanded to abstain from any course of argument, and from any expression, which, however justified by the general tenor of your observations, might tend to interrupt the good understanding which it is the wish of His Royal Highness, on behalf of His Majesty to maintain with the Government of the United States.

No statement contained in your letter appears to affect the general principles which I had the honor to communicate to you in my letter of the 29th of December, 1810.

Great Britain has always insisted upon her right of self-defence against the system of commercial warfare pursued by France; and the British Orders in Council were founded upon a just principle of retaliation against the French decrees. The incidental operation of the Orders of Council upon the commerce of the United States, (although deeply to be lamented,) must be ascribed, exclusively, to the violence and injustice of the enemy, which compelled this country to resort to adequate means of defence. It cannot now be admitted that the foundation of the original question should be changed, that the measure of retaliation adopted against France should now be relinquished at the desire of the Government of the United States, without any reference to the actual conduct of the enemy.

The intention has been repeatedly declared of repealing the Orders of Council, whenever France shall actually have revoked the decrees of Berlin and Milan, and shall have restored the trade of neutral nations to the condition in which it stood previously to the promulgation of those decrees. Even admitting that France has suspended the operation of those decrees, or has repealed them with reference to the United States, it is evident that she has not relinquished the conditions expressly declared in the letter of the French Minister, under date of the 5th of August, 1810. France, therefore requires that Great Britain shall not only repeal the Orders of Council, but renounce those principles of blockade, which are alleged, in the same letter, to be new; an allegation which must be understood to refer to the introductory part of the Berlin decree. If Great Britain shall not submit to those terms, it is plainly intimated in the same letter that France requires America to enforce them. To these conditions His Royal Highness, on behalf of His Majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and law of nations. The blockades established by the Orders of Council rest on separate grounds, and are justified by the principle of necessary retaliation, in which they originated.

The conditions exacted by France would require Great Britain to surrender to the enemy the

most important maritime rights and interests of the United Kingdom

I am commanded to inform you that His Royal Highness cannot consent to blend the question which has arisen upon the Orders of Council with any discussion of the general principles of blockade.

This declaration does not preclude any amicable discussion upon the subject of any particular blockade, of which the circumstances may appear to the Government of the United States to be exceptionable, or to require explanation.

I have the honor to be, &c.

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

LONDON, Feb. 13, 1811.

MY LORD: I have had the honor to receive your letter of the 11th instant, and will transmit a copy of it to my Government. I can have no inducement to trouble your Lordship any further upon the subjects to which it relates.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, Feb. 16, 1811.

SIR: I received at a very late hour last night two notes from Lord Wellesley, (bearing date "February 15, 1811,") of which copies, marked No. 1, and No. 2, are enclosed. Taken together, (as of course they must be,) they announce the appointment of Mr. Foster, as Envoy Extraordinary and Minister Plenipotentiary to the United States, and set forth the reasons why an appointment has been so long delayed.

You will perceive, in the second and third paragraphs of the unofficial paper, a distinct disavowal of the offensive views which the appointment of a mere *Chargé des Affaires*, and other circumstances, appeared originally to indicate.

We are now told, in writing, that the delay in appointing a Minister Plenipotentiary was occasioned, in the first instance, not by any such considerations as have been supposed, but "by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two Governments;" that, more recently, "the state of His Majesty's Government rendered it impossible to make the intended appointment;" and that Lord Wellesley was therefore "concerned to find, by my letter of the 14th of January, that the Government of the United States should be induced to suppose that any indisposition could exist, on the part of His Majesty's Government to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country."

The two papers are evidently calculated to prevent me from acting upon my late request of an audience of leave; and they certainly seem to

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put it in my power, if they do not make it my duty, to forbear to act upon it.

I have it under consideration (looking to the instructions contained in your letter of the 15th of November) what course I ought to pursue. It is at any rate my intention to return to America in the Essex, as I shall doubtless have the President's permission to do in consequence of my letter to you of the 24th of November.

I have the honor to be, &c.

WM. PINKNEY.

[Transmitted by Mr. Pinkney's despatch of Feb. 16.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Feb. 12, 1811.

The Marquis Wellesley has the honor to inform Mr. Pinkney that His Royal Highness, the Prince Regent, will receive the foreign Ministers at his levee at Carlton House, on Tuesday next, the 19th instant, at two o'clock.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
February 13, 1811.

MY LORD: Referring to my letter of the 14th of last month, I beg to be informed by your Lordship at what time His Royal Highness, the Prince Regent, will do me the honor to give the audience of leave. I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Pinkney's despatch of Feb. 16.]

No. 1.

(Private.)—Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Feb. 15, 1811.

SIR: In the various communications which I have had the honor to make to you respecting the appointment of a Minister Plenipotentiary from the King to the United States, I have endeavored to explain to you, in the most distinct manner, the circumstances which had delayed that appointment; and I have expressed my intention to recommend, that it should be carried into effect as soon as the situation of His Majesty's Government might permit.

The delay was occasioned, in the first instance, (as I stated to you repeatedly,) by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two Governments. Since that period of time the state of His Majesty's Government rendered it impossible to make the intended appointment.

I was, therefore, concerned to find, by your letter of the 14th of January, that the Government of the United States should be induced to suppose that any indisposition could exist, on the part of His Majesty's Government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country.

In pursuance of the intention, so often declared to you, His Royal Highness, the Prince Regent, has been pleased, in the name and on behalf of His Majesty, to appoint Mr. Foster (charged,

lately, with His Majesty's affairs in Sweden) to be His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and that appointment will be notified in the next Gazette.

You will, of course exercise your own judgment under these circumstances respecting the propriety of requiring an audience of leave, on the grounds which you have stated.

I have the honor to be, &c.

WELLESLEY.

[Referred to in Mr. Pinkney's despatch of Feb. 16.]

No. 2.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, Feb. 15, 1811.

SIR: Having submitted to His Royal Highness the Prince Regent, your desire to have an audience of leave, with a view to your return to America, I am commanded by His Royal Highness to inform you that he will be prepared to receive you at Carlton House, on Tuesday, the 19th instant.

At the same time, I am commanded to inform you that His Royal Highness, in the name and on behalf of His Majesty, has been pleased to appoint Augustus Foster, Esq., (lately charged with His Majesty's affairs in Sweden,) to be His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States.

I have the honor to be, sir, &c.

WELLESLEY.

Mr. Pinkney to the Secretary of State.

LONDON, February 18, 1811.

SIR: The result of my reflections on Lord Wellesley's two communications of the 15th instant, will be found in my letter to him of yesterday's date, of which I now transmit a copy.

It appeared to me that the appointment of a Minister Plenipotentiary to the United States was nothing, or rather worse than nothing, if the Orders in Council were to remain in force, the blockade of May, 1806, to be unrepealed, the affair of the Chesapeake to continue at large, and the other urgent questions between us to remain unsettled.

The "posture of our relations," as you have expressed it in your letter of the 15th of November, would not be "satisfactorily changed" merely by such an appointment; and, of course, my functions could not be resumed upon the sole foundation of it.

I have put it to Lord Wellesley to say explicitly whether full and satisfactory arrangement is intended, before I answer his official letter concerning my audience of leave. If he is prepared to do at once what we require, or to instruct the new Minister to do at Washington what does not demand immediate interference here, I shall think it my duty to forbear to take leave on the 26th instant. If he declines a frank reply, or refuses our demands, I shall press for my audience, and put an end to my mission. I have the honor, &c.

WILLIAM PINKNEY.

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[Referred to in the preceding despatch.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, Feb. 17, 1811.

MY LORD: Before I reply to your official communication of the 15th instant, you will, perhaps, allow me, in acknowledging the receipt of the unofficial paper which accompanied it, to trouble you with a few words.

From the appointment which you have done me the honor to announce to me, of a Minister Plenipotentiary to the United States, as well as from the language of your private letter, I conclude that it is the intention of the British Government to seek immediately those adjustments with America, without which that appointment can produce no beneficial effect. I presume that, for the restoration of harmony between the two countries, the Orders in Council will be relinquished without delay; that the blockade of May, 1806, will be annulled; that the case of the Chesapeake will be arranged in the manner heretofore intended; and, in general, that all such just and reasonable acts will be done as are necessary to make us friends.

My motives will not, I am sure, be misinterpreted, if, anxious to be enabled so to regulate my conduct, in the execution of my instructions, as that the best results may be accomplished, I take the liberty to request such explanations on these heads as your Lordship may think fit to give me.

I ought to add, that as the levee of His Royal Highness, the Prince Regent, has been postponed until Tuesday, the 26th instant, I have supposed that my audience of leave is postponed to the same day, and that I have, on that ground undertaken to delay my reply to your official communication until I receive an answer to this letter.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, February 24, 1811.

SIR: I received last night Lord Wellesley's answer (of which a copy is enclosed) to my letter of the 17th instant. He has marked it *private*, and speaks of my letter to him as being private also. My letter, however, was not so marked or intended; and his answer, however marked, is essentially an official communication of great importance.

His letter amounts to an explicit declaration that the Orders in Council are to be persisted in; and it furnishes no evidence of a disposition to give us anything but vague and general professions on any subject. I did not, therefore, hesitate to send him a reply, declaring my intention to take leave on Thursday, the 28th, in pursuance of my request of the 13th, and declining to attend the Prince's levee on Tuesday, the 26th. Of this reply, a copy is now transmitted.

To mistake the views of this Government is now impossible. They are such as I always believed them to be, and will, I hope, be resisted with spirit and firmness.

In shaping my course on this occasion, I have endeavored to conform to the orders of the President, signified to me in your letter of the 15th of November. With those orders, as I understand them, my own wishes have certainly concurred; but I trust that I have not suffered inclination to influence my interpretation of them.

According to your letter, my functions were to be considered as suspended on the receipt of it; if the British Government had not then appointed a Minister Plenipotentiary to the United States. Such an appointment had not at that time been made, and consequently the suspension took place.

Upon a careful consideration of your letter, it appeared to me to look to a revival of my functions in the event of "a satisfactory change in the posture of our relations" with this country. I could not, indeed, find in it any precise provision to that effect, but there was apparently room for such a construction; and I have already informed you that, however anxious to close my mission and retire from the public service, I was disposed to act for a few weeks upon that implication, in case such a change occurred in our relations as I deemed a satisfactory one.

It could not be imagined that the appointment of Mr. Foster produced that change; and, supposing it to be left, in some degree at least, to my discretion to determine in what it should consist, I had no difficulty in deciding that the immediate repeal of the Orders in Council and the blockade of May, 1806, a distinct pledge on the affair of the Chesapeake, and a manifestation of a disposition to accommodate with us, on principles of justice, on all other concerns, were indispensable ingredients. It followed that, upon receiving Lord Wellesley's letter of yesterday's date, I had no choice but to press for my audience of leave.

It may perhaps, be thought that I ought not to have refused to appear at Carlton House on the 26th, for the purpose of being presented, with the other foreign Ministers, to the Regent. I have not myself any doubt at all upon that point. My appearance at the levee for such a purpose would import that I consider my capacity, as the Minister of the United States, to be entire, and would, moreover, encourage the delusion which now prevails concerning the views of the British Government towards America.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Referred to in Mr. Pinkney's despatch, Feb. 24, 1811.]

Lord Wellesley to Mr. Pinkney.

APSEY HOUSE, Feb. 23, 1811.

SIR: I have the honor to acknowledge the receipt of your private* letter under the date of the 17th instant.

I take the liberty of referring you to my former unofficial letters and communications for an explanation of the motives which have induced

*N. B. This is a mistake. Mr. Pinkney's letter was not marked *private*, nor intended to be so.

WM. PINKNEY.

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this Government, in pursuance of those amicable views which I have uniformly declared, to appoint a Minister Plenipotentiary to the United States. I have already assured you that the delay of that appointment was occasioned, in the first instance, by an anxious desire to make it in the manner which was likely to prove most acceptable to the United States. The appointment was recently delayed by the state of His Majesty's Government; and it has ultimately taken place, in pursuance of the principles which I have repeatedly stated to you, and not in consequence of any change of system.

It is, perhaps, unnecessary to repeat the desire of this Government to relinquish the Orders in Council, whenever that measure can be adopted without involving the necessity of surrendering the most important and valuable maritime rights and interests of the United Kingdom.

No objection has ever been stated on the part of this Government to an amicable discussion of the principles of any blockade which may be deemed exceptionable by the United States.

I have expressed to you, without reserve, a desire to arrange the case of the Chesapeake on just and equitable principles; and I trust that no apprehension can be entertained of the general disposition of this Government to adopt every reasonable measure which may be necessary to conciliate the friendship of the United States. But it would be neither candid towards you, nor just towards this Government, to countenance any interpretation which might favor a supposition that it was intended by this Government to relinquish any of the principles which I have so often endeavored to explain to you.

His Royal Highness's levee will take place on Tuesday the 26th instant; but I have received his commands to signify to such of the foreign Ministers as may desire to have private audiences, that His Royal Highness will receive them on Thursday, the 28th instant. The foreign Ministers, however, will all be presented to His Royal Highness on Tuesday, the 26th instant, on which day I shall attend for that purpose.

I have the honor to be &c.

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

February 23, 1811.

MY LORD: I have had the honor to receive your private letter of this day's date.

It only remains for me to inform your Lordship that I have transmitted to the Secretary of State of the United States a copy of your official communication of the 15th instant, and of the unofficial paper which accompanied it; and that I will avail myself of the disposition of His Royal Highness the Prince Regent to give me an audience of leave on Thursday next, the 28th of February, in pursuance of the request contained in my letter of the 13th instant, which referred to my letter of the 14th of January.

I take the liberty to add, that until the time ap-

pointed for my audience, I will not trespass on His Royal Highness for the purpose of being presented to him. I have the honor to be, &c.

WILLIAM PINKNEY.

Extract—Mr. Pinkney to Mr. Smith.

LONDON, March 1, 1811.

I had my audience of leave at Carlton House yesterday. In the course of the short address which the occasion required, I stated to the Prince Regent the grounds upon which it had become my duty to take my leave, and to commit the business of the Legation to a *Chargé d'Affaires*; and I concluded by expressing my regret that my humble efforts, in the execution of the instructions of my Government, to set to rights the embarrassed and disjointed relations of the two countries, had wholly failed, and that I saw no reason to expect that the great work of their reconciliation was likely to be accomplished through any other agency.

The Prince's reply was, of course, general; but I ought to say that, exclusively of phrases of courtesy, it contained explicit declarations of the most amicable views and feelings towards the United States. Lord Wellesley was the only person present at this audience.

While I was in the outer room, waiting until the Prince Regent was ready to receive me, Lord Wellesley told me that they intended to send out Mr. Foster immediately.

Extract—Mr. Pinkney to the Secretary of State.

COWES, May 7, 1811.

I enclose duplicate copies (more legible than those transmitted in my letter of the 13th of March) of Mr. Russell's communications to me of the 1st, 11th, 27th, and 30th of December last. They are necessary to account for, not the general character or substance of my late correspondence with Lord Wellesley, but the particular part of the last paragraph of my letter to that nobleman of the 14th of January, 1811, which is contained in the following words: "The information which I have lately received from the American Legation at Paris confirms what I have already, stated, and, I think, proved to your Lordship, that those decrees are repealed, and have ceased to have any effect." I have the honor to be, sir, &c.

[Referred to in Mr. Pinkney's despatch of May 7, 1811.]

Mr. Russell to Mr. Pinkney.

PARIS, December 1, 1810.

SIR: Nothing has transpired here of sufficient importance to be communicated by a special messenger, and no safe private conveyance has hitherto presented itself till now to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the Duke of Cadore, on the 5th of August, relative to the revocation of

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the Berlin and Milan decrees. That these decrees have not been executed for an entire month, on any vessel arriving, during that time, in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know of no better evidence than this which the negative character of the case admits, or how the non-existence of an edict can be proved except by the promulgation of its repeal, and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of one of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depends on them.

I need not suggest to you the importance of transmitting hither as early as possible any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed. I have the honor to be, &c.

JONATHAN RUSSELL.

[Referred to in Mr. Pinkney's despatch of May 7.]

Mr. Russell to Mr. Pinkney.

PARIS, *December 11, 1810.*

SIR: I have had the pleasure to receive your letter of the 22nd ultimo, by Mr. Page, and I thank you most most sincerely for the papers which accompanied it. It is nowhere more necessary than at Paris to hear both sides of a question, in order to give a near guess at the truth. The way in which the story is told on your side of the channel will enable me to correct many errors which it contains as told here. The obligations you confer on me this way I shall endeavor to discharge in kind.

I wrote you, a few days since, by the way of Dieppe, and gave you the best statement of affairs here that the truth would warrant, in hopes that you might derive some advantage from it. I assure you I have felt disappointed and grieved at the conduct of the British Ministry. If they distrusted the sincerity of their enemies with regard to the revocation of the decrees here, still it would have been good policy to have appeared to believe them, and to have acted accordingly. By pursuing a different course, they have missed a golden opportunity of honorably repealing their offending orders, and, in so doing, to have proved at once their own sincerity, and conciliated the good opinion of the United States. If the frigate *Essex*, which arrived on the 4th instant at L' Orient, in twenty-eight days from Norfolk, has brought the President's Proclamation in pursuance of the law of 1st of May, the British Ministry will be placed in an awkward situation. They will have to persevere in the orders, at the expense of their veracity, and at the hazard of war with

the United States, or to withdraw them under very equivocal circumstances, which will give to their conduct the appearance of being rather the result of necessity than the dictate of principle. That the frigate has brought this proclamation there is good cause to suppose, from the time when she left the United States, being a few days subsequent to the period when the Berlin and Milan decrees were to cease to operate. If she has brought this proclamation, it will, without doubt, render absolute the revocation of those decrees, whatever uncertainty might have before attended it. There are probably, then, but a few days left in which the repeal of the British orders can appear to be the spontaneous act of the Ministry; and I sincerely hope that, by properly improving this short period, they may do with good grace what cannot be done afterwards in a way either to save their pride or deserve our friendship.

Agreeably to your request, I shall change the file of the *Journal de l'Empire*, which I intended for you, for that of the *Moniteur*.

I am, sir, very truly and respectfully, your obedient, humble servant,

JONATHAN RUSSELL.

His Excellency WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's despatch of May 7, 1811]

Mr. Russell to Mr. Pinkney.

PARIS, *December 27, 1810.*

SIR: I have received your letters of the 5th and 6th of this month by Mr. Bowdoin and Mr. Wells.

The vessel you mention, the *Charles*, having on board a large quantity of turpentine, which is considered here as naval stores, will probably be condemned for carrying contraband of war to an enemy, without any reference to the Berlin and Milan decrees.

On the other hand, the American vessels which have been permitted to land their outward cargoes in the ports of France, and to take in return cargoes to the United States, are, as far as I can learn, but two, in number, and, in fact, arrived before the 1st of November, and to them the decrees were not applicable. The other vessels which have taken away cargoes have arrived here in ballast, and were recommended by special circumstances to the consideration of this Government.

Nothing can therefore be inferred, either for or against the revocation of the French edicts, from the facts referred to in your letter of the 6th instant.

Since I last wrote, however, I have learned the seizure and capture of two or three American vessels; but the course which this Government will pursue in relation to them being marked out by the letters of the Minister of Justice to the President of the Council of Prizes, and from the Minister of Finance to the Director General of the Customs, which you will find in the *Moniteurs* which I herewith send to you, it is unnecessary to enter into a particular detail of the circumstances which attended these cases.

I am willing to believe that what this Government has done, although it may not be entirely

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satisfactory to the United States, will at least be sufficient to procure from the British Government a repeal of the Orders in Council, and the restoration of all American property taken under them since the 1st of November.

It is possible that the French cruisers may hereafter continue their depredations, but abuses of this kind are very distinct from the operation of the Berlin and Milan decrees, and cannot, by the most extravagant construction of the law of retortion, afford a pretext for the continuance of the British orders. I am, &c.

JONATHAN RUSSELL.

His Ex'cy WILLIAM PINKNEY, &c.

[Referred to in Mr. Pinkney's despatch of May 7.]

Mr. Russell to Mr. Pinkney.

PARIS, *December 30, 1810.*

SIR: A gentleman called on me last evening, from the Duke of Cadore, to inform me that the schooner, the *Grace Ann Greene*, had been released. This vessel arrived at Marseilles since the 1st of November, and was last from Gibraltar, where she had remained some time. As she came clearly within the Berlin and Milan decrees, her release may be considered as conclusive evidence of their revocation. I am, sir, &c.

JONATHAN RUSSELL.

His Ex'cy WILLIAM PINKNEY.

Extract of a letter from J. S. Smith, Esq., Chargé d'Affaires of the United States at London, to the Secretary of State.

LONDON, *May 25, 1811.*

I had yesterday, for the first time, an interview with Lord Wellesley. I presented to him the letters of introduction that Mr. Pinkney had given me, and he received me in the most polite manner.

Mr. Smith, Chargé d'Affaires at London, to the Marquis Wellesley.

LONDON, *May 27, 1811.*

MY LORD: I have the honor to inform your Lordship, from official information this day received by me from Paris, that all the American vessels which have voluntarily arrived in France since the 1st of November have been admitted. This, if any additional evidence of the repeal of the Berlin and Milan decrees were wanting, will sufficiently establish the fact of their revocation, as most of the vessels now admitted would otherwise have been subject to their operation.

I have the honor to be, &c.

J. S. SMITH.

Mr. Smith, Chargé d'Affaires at London, to the Secretary of State of the United States.

LONDON, *June 6, 1811.*

SIR: I have the honor to enclose a report of the trial of the *Fox* and others.

The *John Adams* will leave Cowes this week. The messenger goes down to-morrow evening. I have the honor, &c.

J. S. SMITH.

COURT OF ADMIRALTY, } *Fox and others.*
Thursday, May 30, 1811.

JUDGMENT.

SIR WILLIAM SCOTT.—This was the case of an American vessel, which was taken on the 15th of November, 1810, on a voyage from Boston to Cherbourg. It is contended, on the part of the captors, that, under the Orders in Council of 26th April, 1809, this ship and cargo, being destined to a port of France, are liable to confiscation. On the part of the claimants, it has been replied, that the ship and cargo are not confiscable under the Orders in Council; first, because these orders have in fact become extinct, being professedly founded upon measures which the enemy had retracted; and secondly, that if the Orders in Council are to be considered as existing, there are circumstances of equity in the present case, and in the others that follow, which ought to induce the court to hold them exonerated from the penal effects of these orders.

In the course of the discussion a question has been started, what would be the duty of the court, under Orders in Council that were repugnant to the law of nations? It has been contended on one side, that the court would at all events be bound to enforce the Orders in Council; on the other, that the court would be bound to apply the rule of the law of nations applying to the particular case, in disregard of the Orders in Council. I have not observed, however, that these Orders in Council, in their retaliatory character, have been described in the argument as at all repugnant to the law of nations, however liable to be so described, if merely original and abstract; and therefore it is rather to correct possible misapprehension on the subject, than from the sense of any obligation which the present discussion imposes upon me, that I observe, that this court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed towards this country and its Government. This is what other countries have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law, evidenced in the course of its decisions, and collected from the common usage of civilized States. At the same time, it is strictly true, that by the Constitution of this country, the King in Council possesses legislative rights over this court, and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the law of nations, and that it is bound to enforce the King's Orders in Council, are not at all inconsistent with each other; because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them, and which constitute their legal character, could be but imperfectly known to the court it-

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self; or they are positive regulations, consistent with those principles, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

The constitution of this court, relatively to the legislative power of the King in Council, is analogous to that of the courts of common law relatively to that of the Parliament of this Kingdom. Those courts have their unwritten law, the approved principles of natural reason and justice; they have likewise the written or statute law in acts of Parliament, which are directory applications of the same principles to particular subjects, or positive regulations consistent with them, upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations. What would be the duty of the individuals who preside in these courts, if required to enforce an act of Parliament which contradicted those principles, is a question which I presume they would not entertain *a priori*, because they will not entertain *a priori* the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency, because it cannot, without extreme indecency, presume that any such emergency will happen; and it is the less disposed to entertain them, because its own observations and experience attest the general conformity of such orders and instructions to its principles of unwritten law. In the particular case of the orders and instructions which give rise to the present question, the court has not heard it at all maintained in argument, that as retaliatory orders they are not conformable to such principles; for retaliatory orders they are. They are so declared in their own language, and in the uniform language of the Government which has established them. I have no hesitation in saying, that they would cease to be just if they ceased to be retaliatory; and they would cease to be retaliatory, from the moment the enemy retracts in a sincere manner those measures of his which they were intended to retaliate.

The first question is, what is the proper evidence for this court to receive, under all the circumstances that belong to the case, in proof of the fact that he has made a *bona fide* retraction of those measures? Upon that point it appears to me that the proper evidence for the court to receive is, the declaration of the State itself which issued these retaliatory orders, that it revokes them in consequence of such a change having taken place in the conduct of the enemy. When the State, in consequence of gross outrages upon the law of nations committed by its adversary, was compelled by a necessity which it laments, to resort to measures which it otherwise condemns, it pledged itself to the revocation of those measures as soon as the necessity ceases. And till the State revokes them, this court is bound to presume that the necessity continues to exist; it cannot, without extreme indecency, suppose that they would continue a moment longer than the necessity which produced them, or that

the notification that such measures were revoked, would be less public and formal than their first establishment. Their establishment was doubtless a great and signal departure from the ordinary administration of justice in the ordinary state of the exercise of public hostility, but was justified by that extraordinary deviation from the common exercise of hostility in the conduct of the enemy. It would not have been within the competency of the court itself to have applied originally such rules, because it was hardly possible for this court to possess that distinct and certain information of the facts, to which alone such extraordinary rules were justly applicable. It waited, therefore, for the communication of the facts; it waited likewise for the promulgation of the rules that were to be practically applied. For the State might not have thought fit to act up to the extremity of its rights on this extraordinary occasion; it might, from motives of forbearance, or even of policy unmixed with any injustice to other States, have adopted a more indulgent rule than the law of nations would authorize, though it is not at liberty ever to apply a harsher rule than that law warrants. In the case of the Swedish convoy, which has been alluded to, no order or instruction whatever was issued, and the court, therefore was left to find its way to that legal conclusion which its judgment of the principles of the law led it to adopt. But certainly if the State had issued an order that a rule of less severity should be applied, this court would not have considered it as any departure from its duty to act upon the milder rule which the prudence of the State was content to substitute in support of its own rights. In the present case it waited for the communication of the fact and the promulgation of the rule. It is its duty, in like manner, to wait for the notification of the fact that these orders are revoked, in consequence of a change in the conduct of the enemy.

The edicts of the enemy themselves, obscure and ambiguous in their usual language, and most notoriously, and frequently contradicted by his practice, would hardly afford it a satisfactory evidence of any such change having actually and sincerely taken place. This State has pledged itself to make such a notification when the fact happens; it is pledged so to do by its public declarations; by its acknowledged interpretations of the law of nations; by every act which can excite a universal expectation and demand, that it shall redeem such a pledge. Is such an expectation peculiar to this court? Most unquestionably not. It is universally felt and universally expressed. What are the expectations signified by the American Government in the public correspondence referred to? Not that these orders would become silently extinct under the interpretations of this court, but that the State would rescind and revoke them. What is the expectation expressed in the numerous private letters exhibited to the court amongst the papers found on board this class of vessels? Not that the British orders had expired of themselves, but that they would be removed and repealed by

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public authority. If I took upon myself to annihilate them by interpretation, I should act in opposition to the apprehension and judgment of all parties concerned, of the individuals whose property is in question, and of the American Government itself, which is bound to protect them.

Allusion has been made to two or three cases, in which this court is said to have exercised a power of qualifying and moderating the general terms of an Order in Council, as in the case of the *Lucy, Taylor*, in which the general terms of the order subjected to confiscation all ships transferred by the enemy to neutrals during the war; and yet this court held that these terms did not extend to prize ships so transferred by the enemy. But what was the ground of that interpretation? It was this: the rule itself was adopted from the rule of the enemy, and upon a principle of exact retaliation; for it was declared, in the express terms of the preamble of the order, that it was just to apply the same rule to the enemy which he was in the habit of applying to this country. And when the court found, upon satisfactory evidence, that the enemy did not apply any such rule to prize ships, but specially exempted them, it would have pronounced in direct contradiction to the avowed principle of the order itself, if it had not followed the enemy in this acknowledged distinction. It has likewise been urged that cases may be found in which the court has presumed a revocation, though no such revocation has been promulged. And it is certainly true that where an essential change in the circumstances that occasioned the order has, in effect, extinguished its subject-matter, and that change of circumstances has been publicly declared by the State, the court has not thought it necessary to wait for a formal revocation itself. In the case of the *Baltic* order, by which, in compliance with the wishes of its allies, in the war, the Government of this country granted an immunity from the molestation of capture in that sea; the court held that order to be revoked when the State had declared that most of those to whose applications, as allies, that indulgence had been granted, had changed the character of allies for that of enemies. It was quite unnecessary to wait for such special revocation, when, by the general declaration of war, all hostilities had been authorized against them.

Admitting, however, that there may be cases of presumed revocation, does it follow that this is, with any propriety, to be considered as one of those cases? The novelty of these Orders in Council, the magnitude, the complexity, the extraordinary nature of the facts to which they owe their origin, the attention which they called for and excited both at home and abroad, the pledges given by this State and accepted by other States, all disqualify this court from taking upon itself to apply a presumed revocation in any such case.

Supposing, however, that the court felt itself at liberty to accept as satisfactory other evidence of a sincere retraction of the French decrees, what is the amount of the evidence offered? No edict, no public declaration of repeal, no reference to

cases in which the courts of that country have acted upon any such revocation. The only case mentioned was that of the *New Orleans Packet*, and it was brought forward in such a way, so void of all authenticity, and of all accurate detail of particulars, as to make it hardly possible for me to allude to it with any propriety, and much less with any legal effect. What the circumstances of that case were, in what form, and under what authority, and on what account released, did not at all appear; whether at all applicable to the present question, whether a mere irregularity, or what was its real character, the court could not learn. This, however, is matter of notoriety, that these decrees are pronounced fundamental laws of the French Empire; that they were declared so in their original formation; and that they have been since so declared repeatedly and recently, long since the date of the present transactions. The declaration of the person styling himself *Duke de Cadore* imports no revocation; for that declaration imports only a conditional retraction, and this upon conditions known to be impossible to be complied with. It has been urged that the American Government has considered it otherwise, and has so declared it for the regulation of the conduct of the people of that country. If such is the fact, it is not for me to lose sight of that respect which is due to the acts of a foreign Government, so far as to question the propriety of any interpretation which they may have given to such an instrument. But when the effect of such an instrument is pressed upon me for the purpose of calling for my decision, I must be allowed to interpret it for myself, and to act upon that interpretation. And to me it appears, that the declaration, clogged as it is with stipulations known to be beyond the reach of all rational hope of any possible compliance, is in effect a renunciation of any serious purpose of repealing those decrees. I think I might invoke the authority of the Government of the United States for denying to this French declaration the effect of an absolute repeal, when I observe that the period which they have allowed to the British Government for revoking our Orders in Council extends to the 2d of February; an allowance which could hardly have been made if the revocation on the part of France had really taken place at the time to which that declaration purports to refer.

In the absence of any declaration of the British Government to such an effect, there is a total failure of all other evidence (if the court were at liberty to accept other evidence as satisfactory) that the French decrees had been revoked. If I were driven to decide upon that evidence, independent of all evidence to be regularly furnished by the Government under whose authority I sit, I think I am bound to pronounce that no such revocation has taken place, and, therefore, that the Orders in Council subsist in perfect justice as well as in complete authority.

It is incumbent upon me, I think, to take notice of an objection of Dr. Herbert's to the existence of the Orders in Council—namely: that British subjects are, notwithstanding, permitted to trade

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with France, and that a blockade which excludes the subjects of all other countries from trading with ports of the enemy, and at the same time permits any access to those ports to the subjects of the State which imposes it, is irregular, illegal, and null. And I agree to the position, that a blockade, imposed for the purpose of obtaining a commercial monopoly for the private advantage of the State which lays on such blockade, is illegal and void, on the very principle upon which it is founded. But, in the first place, (though that is matter of inferior consideration,) I am not aware that any such trade between the subjects of this country and France is generally permitted. Licenses have been granted, certainly, in no inconsiderable numbers; but it never has been argued that particular licenses would vitiate a blockade. If it were material in the present case, it might be observed that many more of these licenses had been granted to foreign ships than to British ships, to go from this country to France, and to return here from thence, with cargoes. But, secondly, what still more clearly and generally takes this matter out of the reach of the objection, is the particular nature and character of this blockade of France, if it is so to be characterized. It is not an original independent act of blockade, to be governed by the common rules that belong simply to that operation of war. It is in this instance a counteracting reflex measure, compelled by the act of the enemy, and, as such, subject to other considerations arising out of its peculiarly distinctive character. France declared that the subjects of other States should have no access to England; England, on that account, declared that the subjects of other States should have no access to France. So far this retaliatory blockade (if blockade it is to be called) is co-extensive with the principle: neutrals are prohibited to trade with France, because they are prohibited by France from trading with England. England acquires the right, which it would not otherwise possess, to prohibit that intercourse, by virtue of the act of France. Having so acquired it, it exercises it to its full extent, with entire competence of legal authority; and, having so done, it is not for other countries to inquire how far this country may be able to relieve itself further from the aggressions of that enemy. The case is settled between them and itself by the principle on which the intercourse is prohibited. If the convenience of this country, before this prohibition, required some occasional intercourse with the enemy, no justice that is due to other countries requires that such an intercourse should be suspended on account of any prohibition imposed upon them on a ground so totally unconnected with the ordinary principles of a common measure of blockade, from which it is thus distinguished by its retaliatory character.

The last question is, are there any circumstances, addressed to equitable consideration, that can relieve the claimants from the penal effects of these Orders? Certainly, if any could be urged that arose from the conduct of the British Government itself, they might be urged with a powerful and

even irresistible effect; but if they found themselves in the fraud of the enemy, or in the misapprehensions of the American Government induced by the fraud of the enemy, they found no claim on the British Government or on British tribunals. In the one case they must resort for redress to a quarter where, I fear, it is not to be found—to the Government of the enemy; in the other, where, I presume, it is to be found—to the Government of their own country.

Upon the declaration of the American Government I have already said as much as consists with the respect which I am bound to pay to the declaration of a foreign Government professedly neutral. The custom-houses of that country, say the claimants, cleared us out for France publicly, and without reserve. They did so; but they left the claimants to pursue all requisite measures for their own security, in expectation, I presume, that they would inform themselves, by legal inquiry, whether the blockade continued to exist, if its continuance was uncertain. That it was perfectly uncertain, in their own apprehensions, is clear, from the tenor of these letters of instructions to the different masters of these vessels. In these letters, which are numerous, all is problematical between hope and fear—a contest between the desire of getting first to a tempting market on the one side, and the possible hazard of British capture on the other; and it is to be regretted that the eagerness of mercantile speculation has prevailed over the sense of danger. In such a state of mind, acting upon circumstances, the party must understand that he takes the chance of events—of advantage if the event which he hopes for has taken place, and of loss if it has not. It is his own adventure, and he must take profit or loss as the event may throw it upon him. He cannot take the advantage without the hazard of loss, unless by resorting to British ports in the channel, where certain information may be obtained, on the truth of which all prospects of loss or profit may be safely suspended. On the British Government no responsibility can be charged. They were bound to revoke as soon as they were satisfied of the sincere revocation of the French decrees. Such satisfaction they have not signified, and I am bound to presume that no such satisfaction is felt. With respect to the demand of warning, the Orders themselves are full warning. They are the most formal admonitions that could be given, and, being given and unrevoked, they require no subsidiary notice.

On the grounds of the present evidence, I therefore see no reason to hold the claimants discharged; but I do not proceed to an ultimate decision upon their interests till I see the effect of that additional evidence which is promised to be produced upon the fact of the French retraction of their decrees, said to have been very recently received from Paris by the American Chargé d'Affaires in this country. Having no official means of communication with foreign Ministers, I shall hope to receive the information in a regular manner, through the transmission of the British offices of State.—[Final adjudication suspended.]

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Extract—Mr. John S. Smith to the Secretary of State.

LONDON, *June 8, 1811.*

Enclosed is the copy of a letter which I addressed to Lord Wellesley on the 5th instant. I had delayed making this communication, in the hope that I should do it at the interview which he had promised me, and which I again requested on the 3d instant. I did not consider it necessary to enter at length into a subject which has been so often and so ably discussed, and on which nothing has been left to add. I shall, however, enter into any explanations that may be necessary when I again see his Lordship.

[Enclosed in the preceding.]

Mr. John Spear Smith to Lord Wellesley.

18, BENTINCK STREET, *June 5, 1811.*

MY LORD: I have the honor to communicate to your Lordship the copy of an act passed during the last session of Congress, which, though it renews certain parts of the non-intercourse law against this country, yet it carefully gives to the President the authority to repeal it, "when Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States." In this, as well as in other provisions of the act, His Majesty's Government cannot fail to observe the invariable disposition of the United States to preserve harmony with Great Britain, and to re-establish that happy intercourse between the two nations which it is so much the interest of both to cultivate; and the President confidently expects that His Majesty will not hesitate to abandon a system, always urged to be merely retaliatory, now that its causes have ceased to exist.

I have the honor to inform your Lordship that the gentleman who will be the bearer of my despatches to the United States in the John Adams, will leave town on Friday evening, and that I shall be happy to forward, by the same occasion, any despatches that your Lordship may wish to send to the United States. I have the honor to be, &c.

J. S. SMITH.

Extract—Mr. J. S. Smith to the Secretary of State.

LONDON, *June 16, 1811.*

On the 9th instant, the day after Mr. Hamilton left town with my despatches, I received the enclosed note from Lord Wellesley, appointing Tuesday the 11th to see me at his house. I immediately wrote to Captain Dent to detain the frigate until he heard from me again, but he had gone to sea before my letter reached Cowes, and I am now compelled to send this by another opportunity.

I waited on Lord Wellesley according to his appointment. He commenced the conversation by observing, that, whenever there was anything of importance to be communicated, it was better to do it in writing, as, when merely verbal, it was liable to be misunderstood; that he did not mean anything personal to me; that the same rule was observed with the other foreign agents here, and was customary. I replied that I was ready to

pursue this system; that, in the note which I had written him, enclosing the non-importation act, I had not gone into a lengthy discussion, as that, whatever I might say, would be only a recapitulation of what had so often been written. I, however, proceeded to explain the new act; and to remark to him the particularly amicable nature of the second section of it; that I conceived this to be a most favorable opportunity for Great Britain to abandon her system of restrictions, and particularly at this moment, when I had communicated practical instances of the repeal of the obnoxious measures of France. He said that he did not think they would do anything before they heard from Mr. Foster, who had full instructions upon this and the other points in dispute.

I turned the conversation to the subject of your letter of the 22d of January, and asked him if Mr. Pinkney had given any explanations about the taking possession of West Florida? He replied, that the first he had heard of it was through Mr. Morier, though he had reason to expect something from Mr. Pinkney; that Mr. Foster, however, was instructed on this point; and asked if East Florida was included in these instructions? I replied, that it was. I then communicated to him the substance of your letter, and explained, with frankness, the intentions of the United States. He expressed his wish that this, as well as the other subjects, should lay over until they heard from America.

I showed him the letter of the President to His Majesty, containing Mr. Pinkney's permission to return. He said that it would be proper that I should write him a note, enclosing this letter, and requesting him to present it to the Prince Regent.

The vessel detained here under the Orders in Council have not yet been finally condemned, and I represented to Lord Wellesley, how important it was that they should be released, or that they should be still suspended. He said that he desired it also; but that, private rights being concerned, it was difficult for Government to interfere for their longer suspension.

I am induced to believe that they will wait until they hear from Mr. Foster.

John Spear Smith, Esq., to the Secretary of State of the United States.

LONDON, *June 27, 1811.*

I have the honor to enclose a copy of the final decision of Sir William Scott, in the case of the Fox and others.

The court, on Tuesday last, the 25th instant, condemned the remaining American vessels captured under the Orders in Council. As soon as I can procure a correct list of them, I will have the honor to forward it. The seamen who are left destitute by these condemnations, will be taken care of by General Lyman. They are, of course, numerous.

Sir William Scott's Sentence, in the case of the Fox, &c.

SIR WILLIAM SCOTT.—As the claimants have failed to produce any evidence of the revocation

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of the French decrees, and have nothing to offer as the foundation of a demand for further time, I must conform to what I declared on a former day, and proceed to make the decree effectual. I should certainly have been extremely glad to have received any authentic information tending to show that the decrees of France, to which these Orders in Council are retaliatory, had been revoked; and it was upon a suggestion, offered on the part of the claimants, that despatches had been very recently received from Paris by the American Minister in this country, by which the fact might be ascertained, that the court on the former day deferred its final judgment. It would have been unwilling to proceed to the condemnation of these vessels, without giving the proprietors the opportunity of showing that the French decrees, on which our Orders in Council are founded, had been revoked. But they admit that they have no such evidence to produce; the property of the ships and cargoes is daily deteriorating; and it is my duty to delay no longer the judgment which is called for on the part of the captors.

From everything that must have preceded, and from everything that must have followed, the revocation of the French decrees, if such revocation had taken place, I think I am justified in pronouncing that no such event has ever occurred. The only document referred to on behalf of the claimants, is the letter of the person styling himself Duc de Cadore. That letter is nothing more than a conditional revocation: it contains an alternative proposed, either that Great Britain shall not only revoke her Orders in Council, but likewise renounce her principles of blockade—principles founded upon the ancient and established law of nations; or that America shall cause her neutral rights to be respected; in other words, that she shall join France in a compulsive confederation against this country. It is quite impossible that England should renounce her principles of blockade, to adopt the new-fangled principles of the French Government, which are absolute novelties in the law of nations; and I hope it is equally impossible that America should lend herself to a hostile attempt to compel this country to renounce those principles on which it has acted, in perfect conformity to ancient practice and the known law of nations, upon the mere demand of the person holding the Government of France. The *casus fœderis*, therefore, if it may be so called, does not exist; the conditions on which alone France holds out a prospect of retracting the decrees, neither are or can be fulfilled. Looking at the question, therefore, *a priori*, it cannot be presumed that the revocation has passed. On the other hand, what must have followed, if such had been the fact? Why, that the American Minister in this country must have

been in possession of most decisive evidence upon the subject, for I cannot but suppose that the first step of the American Minister at Paris would have been to apprise the American Minister at this Court of so momentous a circumstance, with a view to protect the American ships and cargoes which had been brought in under the British Orders in Council. If no such information has been received by him, there never was a case in which the rule, "*de non apparentibus et non existentibus eadem est ratio*," can more satisfactorily apply. For it is quite impossible that such a revocation can have taken place without being attended with a clear demonstration of evidence that such was the fact.

I am, therefore, upon every view of the case, of opinion that the French decrees are, at this moment, unrevoked. But if, by any possibility, it can have happened that an actual revocation has taken place against the manifest import of the only public French declaration referred to, and without having been yet communicated to the American Minister in this country, who was so much concerned to know it, for the benefit of the persons for whose protection it must have been principally meant, the parties will have the advantage of the fact, if they can show, upon an appeal, that those decrees have been revoked at a time and in a manner that could justly be applied to the determination of these causes—revoked at a period which would reach the dates of this capture, and in a manner unencumbered with stipulations which it was well known this country could never accept, and to which there was every reason to presume that the justice of America could never permit her to accede, upon the refusal of Great Britain. On such a state of evidence the claimants will carry up with them to the superior court the principle that might entitle them to protection, according to the view which this court has taken of the subject. But things standing as they do before me—all the parties having acted in a manner that leads necessarily to the conclusion that no *bona fide* revocation of the Berlin and Milan decrees has taken place—I must consider these cases as falling within the range of the British Orders in Council, and, as such, they are liable to condemnation.

Extract—Mr. J. S. Smith to the Secretary of State.

LONDON July 10, 1811.

Enclosed is a list of the American vessels that have been condemned at the late sittings of the Court of Admiralty; two only of them have not yet been decided upon. They will, however, share the same fate as the others. Vessels and cargoes will be sold, and the money deposited in court to await, for twelve months, the appeal of the captured, from which very little is, I fear, to be expected.

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[Referred to in the despatch of J. S. Smith, of July 10, 1811.]

Vessel's name.	Captain.	From whence.	Cargo.	ESTIMATED COST.	
				Vessel.	Cargo.
*Brig Fox - - -	Porter -	Boston -	Colonial produce, &c. - -	\$10,000	\$29,500
*Schooner Betsey - -	Lindsey -	Marblehead -	Fish and oil - - -	8,500	21,500
*Schooner Mary - -	Devereux -	Do. -	Fish, green - - -	2,000	1,800
*Schooner Polly - -	Vickery -	Do. -	Fish, green - - -	2,000	1,800
*Schooner Ann - -	Dolliber -	Do. -	Fish, green - - -	2,000	1,800
*Schooner Woodbridge	Kimman -	Boston -	Fish, oil, colonial produce, &c. -	3,500	7,000
*Ship Danube - -	Pierce -	New York -	Cotton, rice, colonial produce -	20,000	35,000
*Brig Matilda - -	Lee -	Boston -	Cotton, fish, tobacco, teas, nan- keens.	12,000	25,000
*Brig Eliza - - -	Corgie -	Philad'a -	Peltry and cotton - - -	8,000	38,000
*Ship Adolphus - -	Brevort -	New York -	Tobacco, peltry, &c. - -	20,000	45,000
*Schooner Two Sisters	Bridges -	Marblehead -	Fish, green - - -	2,000	1,800
*Brig Garland - -	Haff -	New York -	Cotton, ivory, dyewood - -	8,000	30,000
*Ship Betsey - - -	Milwood -	Norfolk -	Tobacco - - -	8,000	21,500
*Brig Java - - -	Stacy -	Boston -	Fish, dry - - -	12,800	7,500
*Ship Projector - -	Brown -	New York -	Cotton, ivory, &c. - - -	8,000	30,000
*Brig Beauty - - -	Morris -	Philad'a -	Cotton, colonial produce, &c. -	17,000	20,000
*Ship Charleston Packet	Weeks -	Do. -	Cotton, peltry, &c. - - -	10,000	25,000
*Ship Rebecca - -	Tobey -	New York -	Cotton, sugar, coffee - - -	15,000	30,000
†Ship Andrew - -	Coggins -	Bayonne -	Brandy, wine, dry goods - -	12,000	25,000
†Ship Rose in Bloom -	Aliot -	Do. -	1,800 galls. brandy, 21 pack. dry goods, with American seamen.	8,000	15,000
†Schooner Lydia - -	Kelham -	Bordeaux -	Brandy, wine, silks - - -	3,500	14,000
†Ship Eleanor - -	Kempton -	Savannah -	Cotton, rice, tobacco - - -	8,000	20,000
†Schooner Helen - -	Elkins -	Marblehead -	Fish and oil - - -	3,500	4,000
†Brig Telemachus - -	Berry -	Bordeaux -	Brandy, wine, silks - - -	4,000	6,000
†Schooner Lark - -	Cloutman -	Marblehead -	Fish, green - - -	2,000	1,800
†Ship Golden Fleece -	Silliman -	Charleston -	Cotton, rice, wax - - -	25,000	45,000
Ship Louisiana - -	Richards -	New York -	Cotton - - -	7,500	15,000
Brig Fox - - -	Gooday -	New York -	Cotton, coffee, sugar, &c. - -	15,000	50,000

* Condemned June 18, 1811. † Condemned June 21, 1811. ‡ Condemned July 5, 1811. The two last have not had a trial.

Mr. John Spear Smith, Chargé d'Affaires of the United States, to the Secretary of State.

LONDON, July 22, 1810.

SIR: I have the honor to enclose a copy of Mr. Russell's letter to me of the 14th instant, which contains the agreeable intelligence of the release of three of the captured American vessels. I shall communicate its substance to this Government without the formality of an official note, supposing that Mr. Foster is fully instructed on the subject of the Orders in Council, and that anything I might, under these circumstances, offer, would be attended with no advantage. I enclose also a letter from Mr. Russell, of the 5th instant.* I have the honor to be, &c.

JOHN S. SMITH.

Extract—Mr. J. S. Smith to the Secretary of State of the United States.

LONDON, August 15, 1811.

I have the honor to transmit to you Lord Wellesley's answer to my note, covering Mr. Russell's letter of the 14th of July; and also another note

from his Lordship on the same subject, which I received last evening.*

Mr. Monroe to Mr. Russell.

DEPARTMENT OF STATE, July 27, 1811.

SIR: This letter will be delivered to you by Mr. Barlow, who is appointed to represent the United States at Paris, as their Minister Plenipotentiary. You will deliver to him the papers in your possession, and give him all the information in your power, relative to our affairs with the French Government.

The President has instructed me to communicate to you his approbation of your conduct in the discharge of the duties which devolved on you, as Chargé d'Affaires at Paris, after the departure of General Armstrong, which I execute with pleasure. As an evidence of his confidence and favorable disposition, he has appointed you to the same trust in London, for which I enclose

* The papers enclosed in these letters make part of the enclosures in Mr. Monroe's letter to Mr. Foster, of the 17th of October, and are printed with it.

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you a commission. It is hoped that it may suit your convenience to repair to that Court, and to remain there until a Minister shall be appointed, which will be done as soon as the Congress convenes. The frigate which takes Mr. Barlow to France will pass on to some port in Holland to execute a particular instruction, from the Secretary of the Treasury, relative to our debt in that country. She will then return to France, and take you to such English port as may be most convenient to you.

Your services in France will have given you such knowledge of your duties at London, that I shall not go into detail in this communication respecting them. It is wished and expected that you and Mr. Barlow will communicate fully on the subject of your respective duties, and co-operate together in the measures which are deemed necessary to promote the just objects of the United States with the countries in which you will respectively represent them.

You will receive a copy of the notes of Mr. Foster on several important topics, and my answers to them, particularly on the British Orders in Council; the possession taken by the United States of certain parts of West Florida; and the late encounter between the United States frigate, the President, and the British sloop of war, the Little Belt. It is hoped that the British Government will proceed to revoke its Orders in Council, and thus restore, in all respects, the friendly relation which would be so advantageous to both countries. The papers relative to West Florida show the ground on which that question rests. The affair of the Little Belt cannot excite much feeling, as it is presumed, in England; the chase was begun by the British captain; he fired the first shot and the first broadside; to which it may be added that the occurrence took place near our coast, which is sometimes infested by vessels from the West Indies, without commissions, and even for piratical purposes. It seems to be a right inseparable from the sovereignty of the United States, to ascertain the character and nation of the vessels which hang on their coast. An inquiry is ordered into Commodore Rodgers' conduct, at his request, for the purpose of establishing all the facts appertaining to this occurrence.

You will be allowed an outfit for Paris, and half an outfit to take you to London.

Should you, by any circumstance, be unable to proceed to London, which would be a cause of regret, you will be so good as to transmit, by a special messenger, the papers forwarded for you to Mr. Smith, who, in that event, will remain there.

You will receive, enclosed, a letter to Mr. Smith, to be delivered to him in case you go to London, as it is wished that your removal to London should not be imputed to a want of due respect for him. I have the honor, &c.

JAMES MONROE.

Extract—Mr. Russell to the Secretary of State.

LONDON, Nov. 22, 1811.

I have the honor to inform you that I reached London on the 12th of this month, and on the

15th waited on the Marquis Wellesley, in pursuance of his appointment. His Lordship said it was very uncertain when he should be able to present me to the Prince Regent, as His Royal Highness had, the day before, met with an accident at Oatlands, which might prevent his return to town for some time.

Our conversation was of a very general character, and did not embrace with precision any of the questions in agitation between the two countries. His Lordship once observed that he hoped, in the course of five or six weeks we might have some amicable discussion with each other.

Until I am otherwise instructed, I shall confine myself here to the exercise of the ordinary duties of the Legation. After the proof which has been already produced of the revocation of the French decrees, it would probably do no good for me to make a statement on that subject, especially as I have nothing new to offer. Enough has already been said to convince those who were not predisposed to resist conviction.

The Constitution left Portsmouth on the 21st instant for Cherbourg.

Extract—Mr. Monroe, Secretary of State, to Mr. Russell.

DEPARTMENT OF STATE, Nov. 27, 1811.

I had lately the honor to transmit to you a copy of the President's Message to Congress at the commencement of the session, and of the documents which accompanied it, so far as they were then printed. In the papers now sent, you will receive a complete copy of that highly interesting communication.

You will see by these documents the ground which has been taken by the Executive, in consequence of the new ground taken by Great Britain. The Orders in Council are considered as war on our commerce, and to continue until the Continental market is opened to British products, which may not be pending the present war in Europe. The United States cannot allow Great Britain to regulate their trade, nor can they be content with a trade to Great Britain only, whose markets are already surcharged with their productions.

The United States are, therefore, reduced to the dilemma either of abandoning their commerce, or of resorting to other means more likely to obtain a respect for their rights. Between these alternatives, there can be little cause for hesitation.

It will be highly satisfactory to learn that a change in the policy of Great Britain shall have taken place, and it is expected that you will avail yourself of every opportunity, and particularly of the return of this vessel, to communicate the most full and correct information on the subject.

The Hornet will land a messenger in France, who takes despatches to our Minister in Paris, after which she will proceed to England, and land there a messenger with despatches to you. It is desired that you will hurry her return to France, with the greatest expedition possible, from whence she will hasten to the United States.

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Extract—Mr. Russell to the Secretary of State.

LONDON, Dec. 23, 1811.

Since I wrote to you on the 22d ult. nothing new, in relation to the United States, has occurred here.

Everything remains in doubt with regard to a change of Ministers, and much more so with regard to a change of measures.

I have not heard from Mr. Barlow since I left France, and do not know if the Constitution has yet left that country.

The newspapers which I transmit you here-with contain the late occurrences, and to those I beg leave to refer you.

Extract—Mr. Russell to the Secretary of State.

LONDON, Jan. 10, 1812.

Mr. Tayloe, the messenger by the United States ship *Hornet*, arrived in town on the 3d of this month, and delivered your despatches. I regret that I have nothing of a satisfactory nature to communicate to you, in return, relative to a change of system here. I have detained Mr. Tayloe a few days, as the opening of Parliament and the early debates might indicate the spirit and develope the views of the Ministry with regard to us.

I have announced to the Marquis Wellesley that the messenger will leave London on the 14th instant; and while I offered to take charge of any despatches which his Lordship might wish to transmit by him, I availed myself of the occasion to state the high satisfaction it would afford me to be able to communicate to the American Government, by the same opportunity, the repeal, or such modification of the Orders in Council violating the rights of the United States, as would remove the great obstacle to free intercourse and perfect harmony between the two countries. I do not, however, flatter myself that this suggestion will produce any effect.

Extract—Mr. Russell to Mr. Monroe.

LONDON, Jan. 14, 1812.

Since I had the honor to address you *via* Liverpool, on the 10th of this month, I have received no communication from this Government.

The expectation of a change of Ministry, which was confidently entertained a few weeks since, appears to have vanished, and a hope of the extinguishment of the Orders in Council is very much diminished.

Extract—Mr. Russell to the Secretary of State.

LONDON, Jan. 14, 1812.

I have the honor to acknowledge the receipt of your two letters of the 27th November last.

It would have afforded me the highest satisfaction to have been able to communicate to you, by the return of the *Hornet*, the revocation of the Orders in Council. Hitherto, however, there has been exhibited here no disposition to repeal them.

Mr. Russell to the Secretary of State.

LONDON, Jan. 14, 1812.

SIR: I lament that it is not in my power to announce to you, by the return of Mr. Tayloe, the adoption of a system here towards the United States more just and reasonable than that of which we now complain. No intimation has been given to me of an intention to abandon the offending Orders in Council. I have not, hitherto, made any representation in regard to these orders; and if they are to be persisted in, as Mr. Foster declares, not only until the Berlin and Milan decrees be entirely abrogated, but until we compel the French Government to admit us in France with the manufactures and produce of Great Britain and her colonies, it must be useless to say anything upon the subject. The revolting extravagance of these pretensions is too manifest to be the subject of argument; and the very attempt to reason them down would admit that they are not too absurd for refutation.

Should Mr. Barlow furnish me with any new evidence of the discontinuance of the French edicts, so far as they were in derogation of our rights, I shall present it to this Government; and, *once more*, however unnecessary it may appear, afford it an opportunity of revoking its orders, which can no longer be pretended to rest on our acquiescence in the decrees of its enemy, from the unrighteous operation of which we are specially exempted.

I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to Mr. Monroe.

LONDON, Jan. 22, 1812.

SIR: Yesterday I understood the case of the *Female*, one of the vessels captured under the Orders in Council, came to trial before Sir William Scott. He rejected a motion for time to produce evidence of the revocation of the Berlin and Milan decrees *in relation to the United States*, and suggested that there would be a question of law, if such revocation, when shown, would be considered by the British Government as sufficient to require the repeal of the Orders in Council; at any rate, that he was bound to consider these orders to be in force until their repeal should be notified to him by this Government. The *Female* was condemned.

I have the honor to be, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

Extract—Mr. Russell to the Secretary of State.

LONDON, Jan. 25, 1812.

Since I had the honor to address you on the 14th instant by the *Hornet*, I have received no communication either from Washington or Paris.

The *Hornet* did not leave Cowes until the 18th, owing, I presume to the indisposition of the captain, whom I understand to have been very ill. I dismissed Mr. Tayloe here on the 14th.

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Extract—Mr. Russell to Mr. Monroe.

LONDON, Feb. 3, 1812.

Since I had the honor to address you on the 25th ultimo, I have received your communications of the 20th December, through the good offices of Mr. Foster.

While I lament the necessity, as I most sincerely do, of the course indicated by the proceedings of Congress, yet it is gratifying to learn that it will be pursued with vigor and unanimity. I am persuaded that this Government has presumed much on our weakness and divisions, and that it continues to believe that we have not energy and union enough to make efficient war.

I have this moment learned that the *Hornet* has returned from Cherbourg to Cowes; and I understand by a letter from the Consul there, that there is a Mr. Porter on board with despatches from Mr. Barlow for this Legation, but he has not yet made his appearance here. I am obliged to close this letter without waiting for him, as I understand the next post may not arrive at Liverpool in season for the Orbit.

Mr. Russell to the Secretary of State.

LONDON, Feb. 9, 1812.

SIR: I have the honor to transmit to you, enclosed, a copy of a letter, dated the 29th ultimo, from Mr. Barlow, and a copy of the note in which I yesterday communicated that letter to the Marquis Wellesley.

Although the proof of the revocation of the French decrees contained in the letter of Mr. Barlow, is, when taken by itself, of no very conclusive character, yet it ought, when connected with that previously exhibited to this Government, to be admitted as satisfactorily establishing that revocation, and in this view I have thought it to be my duty to present it here.

I have the honor to be, &c.

JONATHAN RUSSELL.

[Enclosed in Mr. Russell's letter of Feb. 9th, 1812.]

Mr. Barlow to Mr. Russell.

PARIS, Jan. 29, 1812.

SIR: The ship *Acastus*, Captain Coffee, from Norfolk, bound to Tonningen with tobacco, had been boarded by an English frigate, and was taken by a French privateer, and brought into Fécamp for the fact of having been so boarded. This was in November last. On the 2d of December I stated the facts to the Duke of Bassano; and in a few days after the ship and cargo were ordered by the Emperor to be restored to the owners, on condition that she had not violated the French navigation laws, which latter question was sent to the Council of Prizes to determine. The Council determined that no such violation had taken place, and the ship and cargo were definitively restored to Captain Coffee.

To the above fact I can add, that since my residence here, several American vessels with cargoes have arrived and been admitted in the ports of France, after having touched in England, the fact being declared; and there is no instance

within that period of a vessel, in either of the cases of the *Berlin* and *Milan* decrees being detained or molested by the French Government.

I have the honor to be, &c.

J. BARLOW.

[Enclosed in Mr. Russell's letter of Feb. 9th, 1812.]

Mr. Russell to the Marquis Wellesley.

LONDON, Feb. 8, 1812.

MY LORD: I have the honor herewith to hand to your Lordship the copy of a letter addressed to me, on the 29th of last month, by Mr. Barlow, the American Minister at Paris.

I have felt some hesitation in communicating this letter to your Lordship, lest my motive might be mistaken, and an obligation appear to be admitted, on the part of the United States, to furnish more evidence of the revocation of the *Berlin* and *Milan* decrees than has already been furnished, or than has been necessary to their own conviction. I trust, however, that my conduct on this occasion will be ascribed alone to an earnest desire to prevent the evils which a continued diversity of opinion on this subject might unhappily produce.

The case of the *Acastus* necessarily implies that American vessels, captured by the cruisers of France, are adjudged by the French navigation laws only, and that the *Berlin* and *Milan* decrees make no part of these laws; the *Acastus* being acquitted, notwithstanding the fact of her having been boarded by an English vessel of war.

To the declaration of Mr. Barlow, that since his residence at Paris there had been no instance of a vessel, under either the *Berlin* or *Milan* decrees, being detained or molested by the French Government, I beg leave to add that, previous to his residence and subsequent to the 1st of November, 1810, these decrees were not executed in violation of the neutral or national rights of the United States.

Whatever doubts might have been entertained of the efficient nature of the revocation of those decrees, on account of the form in which that measure was announced, these doubts ought surely now to yield to the uniform experience of fifteen months, during which period not a single fact has occurred to justify them.

I do not urge, in confirmation of this revocation, the admission of American vessels with cargoes arrived in the ports of France after having touched in England, as stated by Mr. Barlow, and as accords with what occurred during my residence at Paris, because such admission is evidence only of the cessation of the municipal operation of the decrees in relation to the United States, of which it cannot be presumed that the British Government requires an account.

I cannot forbear to persuade myself that the proof now added to the mass which was already before your Lordship will satisfactorily establish, in the judgment of His Britannic Majesty's Government, the revocation of the decrees in question, and lead to such a repeal of the Orders in Council, in regard to the United States, as will

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restore the friendly relations and commercial intercourse between the two countries.

I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to the Secretary of State.

LONDON, Feb. 21, 1812.

SIR: I regret that, in announcing to you the cessation of the restrictions on the Regency here, I cannot at the same time apprise you of the adoption of a more just and enlightened policy in favor of the United States than has hitherto prevailed.

The partial changes in the Ministry will probably produce no change of its character, or lead to an abandonment of the existing system in relation to us. I have the honor to be, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

Mr. Russell to Mr. Monroe.

LONDON, Feb. 22, 1812.

SIR: I have the honor to hand you, enclosed, a copy of a letter to me from the Earl of Liverpool, relating to a person by the name of Bowman, said to be a British subject, and forcibly detained on board the United States' ship Hornet, together with copies of the deposition of Elizabeth Eleanor Bowman, which accompanied it, and of my reply. I have the honor to be, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

[Referred to in Mr. Russell's despatch of Feb. 22.]

The Earl of Liverpool to Mr. Russell.

FOREIGN OFFICE, Feb. 20, 1812.

SIR: I have the honor to transmit to you the copy of an affidavit, sworn at Portsmouth, by Elizabeth Eleanor Bowman, stating herself to be the wife of William Bowman, one of His Majesty's subjects, now detained against his will on board the United States' sloop Hornet, at present in Cowes road.

You cannot but be aware of the urgent necessity of putting the facts alleged in this document into an immediate train of investigation, and I am to request that you will communicate, without loss of time, with the commanding officer of the Hornet, in order that he may afford you all the information in his power, and that the vessel may not put to sea before the result of the inquiry shall be ascertained in a manner satisfactory to yourself and to this Government.

You must likewise be aware that this Government has no power to prevent the issuing of a writ of *habeas corpus* by the friends of Bowman, and that in that case it would be impossible to impede or delay its execution, and the consequent removal of this question out of the hands of the two Governments into those of the legal force and authorities of this country.

Anxious to prevent any such proceeding, the inconveniences of which, even if they did not involve the possibility of a forcible execution of

the legal process, might yet be considerable, I request your immediate attention to this communication; and I confidently hope that you will, by affording the means of an amicable investigation, supersede the necessity in which the friends of Bowman may otherwise feel themselves of taking the course to which I have before alluded.

I have the honor to be, &c.

LIVERPOOL.

BOROUGH OF PORTSMOUTH,
in the County of Southampton:

Elizabeth Eleanor Bowman, of Kingston, near Portsmouth, in the said county, maketh oath that she was married to William Bowman, late of Portsmouth, shipwright, about six years ago; that he was employed in the dock-yard there, which he quitted about three years ago, and sailed from hence in the Edward Fork, a transport, which was wrecked on the island of Cuba; that she was informed by her husband that he got from Cuba to New York in an American ship, and, about the 4th of June last, having got in liquor, he found himself in the American rendezvous there, and that he was compelled against his inclination to go on board the Hornet, an American sloop of war, being conducted on board her by a file of soldiers; that the Hornet having arrived safely at Cowes, she received a letter from her husband, requesting her to come on board to see him; that she accordingly went on board her, but was kept alongside the sloop about half an hour before the officer would admit her on board; that the permission to remain on board was for half an hour, but the officers would not afterwards permit her to quit the ship until the following Friday: that her husband told her that the officer threatened to punish him for having informed her where he was; and he also told her there were a great many English on board, several of whom would be glad to quit her; also, that some men on board much wished her away from this country, but that she does not know the names of any of the parties: that the said William Bowman, who passed on board the Hornet by the name of William Elby, is now detained on board her against his will, and is very anxious to quit the American sloop Hornet, and to return to his native country.

The & of

ELIZABETH E. BOWMAN.

Sworn at Portsmouth, in the said county, the 25th day of January, 1812, before me, the same having been first read, and she having set her mark thereto in my presence.

E. H. AMAND.

*One of his Majesty's Justices of the Peace
for the county of Southampton.*

[Enclosed in Mr. Russell's despatch of Feb. 22.]

Mr. Russell to the Earl of Liverpool.

LONDON, Feb. 24, 1812.

MY LORD: I have the honor to inform your Lordship that the United States' sloop Hornet left Cowes on the 13th of this month. The statement of this fact does away, I presume, the necessity of a more particular reply to your Lord-

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ship's note of yesterday concerning William Bowman, a seaman on board that ship.

I have the honor to be, &c.

JONATHAN RUSSELL.

Hon. the EARL OF LIVERPOOL.

Extract—Mr. Russell to Mr. Monroe.

LONDON, March 4, 1812.

Many American vessels which had for a considerable time been wind-bound in the ports of this country were at length released on the 29th ultimo by an easterly wind, and took their departure for the United States. By some of those vessels, particularly the *Friends*, you will have received many letters from me, and you will have learned as nearly as it was in my power to inform you, what in your letter of the 18th of January you desire to know, namely, "the precise situation of our affairs with England."

Since my letters of the 19th and 22d ultimo, which I trust will have extinguished all expectation of any change here, the motion of Lord Lansdowne on the 28th February, and that of Mr. Brougham yesterday, have been severally debated in the respective Houses of Parliament. I attended the discussions on both, and if anything was wanting to prove the inflexible determination of the present Ministry to persevere in the Orders in Council without modification or relaxation, the declarations of the leading members of the Administration on these occasions must place it beyond the possibility of doubt. In both Houses these leaders expressed a disposition to forbear to canvass, in the present state of our relations, the conduct of the United States towards England, as it could not be done without reproaching her in a manner to increase the actual irritation, and to do away what Lord Bathurst stated to be the feeble hopes of preventing war.

In the House of Commons Mr. Rose virtually confessed that the Orders in Council were maintained to promote the trade of England at the expense of neutrals, and as a measure of commercial rivalry with the United States. When Mr. Canning inveighed against this new (he must have meant newly acknowledged) ground of defending these orders, and contended that they could be justified only on the principle of retaliation, on which they were avowedly instituted, and that they were intended to produce the effects of an actual blockade, and liable to all the incidents of such blockade, (that is, that they were meant only to distress the enemy, and that Great Britain had no right to defeat this operation by an intercourse with that enemy which she denied to neutrals,) Mr. Perceval replied, "that the orders were still supported on the principle of retaliation, but that this very principle involved the license trade; for as France by her decrees had said that no nation should trade with her which traded with England, England retorted that no country should trade with France but through England." He asserted that "neither the partial nor even the total repeal of the Berlin and Milan decrees, as they related to America, or to any other nation,

or to all other nations, could form any claim on the British Government while the continental system, so called, continued in operation. He denied that this system, or any part of the Berlin and Milan decrees, was merely municipal. They had not been adopted in time of peace with a view to internal regulations, but in a time of war with a hostile purpose towards England. Every clause and particle of them were to be considered of a nature entirely belligerent, and, as such, requiring resistance, and authorizing retaliation on the part of Great Britain. It was idle and absurd to suppose that Great Britain was bound, in acting on the principle of retaliation in these times, to return exactly and in form, like for like, and to choose the object and fashion the mode of executing it precisely by the measures of the enemy. In adopting these measures, France had broken through all the restraints imposed by the laws of nations, and trodden under foot the great conventional code received by the civilized world as prescribing rules for its conduct in war as well as in peace.

In this state of things, England was not bound any longer to shackle herself with this code, and by so doing become the unresisting victim of the violence of her enemy, but she was herself released from the laws of nations, and left at liberty to resort to any means within her power to injure and distress that enemy, and to bring it back, to an observance of the *jus gentium* which it had so egregiously and wantonly violated. Nor was England to be restricted any more in the extent than in the form of retaliation; but she had a right, both as to the quantity and manner, to inflict upon the enemy all the evil in her power, until this enemy should retrace its steps, and renounce, not only verbally but practically, its decrees, its continental system, and every other of its belligerent measures incompatible with the old acknowledged laws of nations. Whatever neutrals might suffer from the retaliatory measures of England was purely incidental, and, as no injustice was intended to them, they had a right to complain of none; and he rejoiced to observe that no charge of such injustice had that night been brought forward in the House. As England was contending for the defence of her maritime rights, and for the preservation of her national existence, which essentially depended on the maintenance of those rights, she could not be expected, in the prosecution of this great and primary interest, to arrest or vary her course to listen to the pretensions of neutral nations, or to remove the evils, however they might be regretted, which the imperious policy of the times indirectly and unintentionally extended to them."

As the newspapers of this morning give but a very imperfect report of this speech of Mr. Perceval, I have thought it to be my duty to present you with a more particular account of the doctrines which were maintained in it, and which so vitally affect the rights and interests of the United States.

I no longer entertain a hope that we can honorably avoid war.

Relations with Great Britain.

Extract—Mr. Russell to the Secretary of State.

LONDON, *March 20, 1812.*

I had the honor to address you on the 4th instant, giving a brief account of the debate in the House of Commons on the preceding evening. Since then, no change in relation to us has taken place here.

Extract—Mr. Russell to the Secretary of State.

LONDON, *March 28, 1812.*

Since I had the honor to address you a few days since, nothing has occurred here to induce a hope of any change in our favor.

Extract—Mr. Russell to the Secretary of State.

LONDON, *April 9, 1812.*

Since my last respects to you, nothing of importance to us has occurred here.

Mr. Russell to Lord Castlereagh.

18 BENTINCK STREET, *April 25, 1812.*

MY LORD: I have the honor to acknowledge the receipt of the note which your Lordship addressed to me on the 21st of this month, enclosing, by the command of His Royal Highness the Prince Regent, a copy of a declaration, accompanying an Order in Council, which had that day been passed.

It would have afforded me the highest satisfaction, in communicating that declaration and order to my Government, to have represented them as conceived in the true spirit of conciliation, and with a due regard to the honor and interests of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the councils of His Royal Highness, I am compelled to consider them as an unequivocal proof of the determination of His Britannic Majesty's Government to adhere to a system, which both as to principle and fact, originated, and has been continued, in error; and against which the Government of the United States, so long as it respects itself and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty, in relation to the other, of the first violation of the public law of nations; but they do consider it their most imperative duty to protect themselves from the unjust operation of the unprecedented measures of retaliation professed by both Powers to be founded on such violation. In this operation, by whichever party directed, the United States have never for a moment acquiesced, nor by the slightest indication of such acquiescence afforded a pretext for extending to them the evils by which England and France affect to retaliate on each other. They have, in no instance, departed from the observance of that strict impartiality which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their

astonishment, however, they perceived that both these belligerent Powers, under the pretence of annoying each other, adopted and put in practice new principles of retaliation, involving the destruction of those commercial and maritime rights, which the United States regard as essential and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American Government resorted to no measures to oppose it, which were not of the most pacific and impartial character, in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation, were equally addressed to England and France; and if there is now an equality in the relations of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both, while France accepted them; and who continues to execute her retaliatory edicts on the high seas, while those of France have there ceased to operate.

If Great Britain could not be persuaded by considerations of universal equality, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of her enemy, or to abandon an attempt of remotely and uncertainly annoying that enemy through the immediate and sure destruction of the vital interests of a neutral and unoffending State, yet it was confidently expected that she would be willing to follow that enemy, also in his return towards justice, and, from a respect to her own declarations, to proceed *pari passu* with him in the revocation of the offending edicts. This just expectation has, however, been disappointed; and an exemption of the flag of the United States from the operation of the Berlin and Milan decrees has produced no corresponding modification of the British Orders in Council. On the contrary, the fact of such exemption on the part of France, appears, by the declaration and Order in Council of the British Government on the 21st of this month, to be denied; and the engagement of the latter to proceed, step by step, with its enemy, in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her decrees, so far as they concerned the United States, has been established by declarations and facts satisfactory to them, and which, it was presumed, should have been equally satisfactory to the British Government. A formal authentic declaration of the French Government, communicated to the Minister Plenipotentiary of the United States at Paris, on the 5th of August, 1810, announced that the decrees of Berlin and Milan were revoked, and should cease to operate on the 1st of the succeeding November, provided that a condition presented to England, or another condition presented to the United States, should be performed. The condition presented to the United States was performed; and this performance rendered absolute the repeal of the decrees. So far, therefore, from this repeal depending on conditions in which Great Britain could not acquiesce, it became absolute, indepen-

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dently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure by the United States from the first; and that it was a correct one, has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the decrees would have attached, if still in force against the United States, have, from time to time, been presented to His Britannic Majesty's Government. That these cases have been few, is to be ascribed to the few captures, in consequence of this repeal, made by French cruisers; and should no other such case occur, it will be owing to the efficacy of this repeal, and to the exact observance of it, even by the most wanton and irregular of those cruisers.

From the 1st of November, 1810, to the 29th of January of the present year, as appears by a note which I had the honor to address to the predecessor of your Lordship, on the 8th of February last, the Berlin and Milan decrees had not been applied to American property; nor have I heard that such application has since been made.

But against the authentic act of the French Government of the 5th of August, 1810, and the subsequent conduct of that Government, mutually explaining each other, and confirming the construction adopted by the United States, a report, said to be communicated by the French Minister of Foreign Affairs to the Conservative Senate, is opposed. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper, yet it is to be lamented that as much form and evidence of authenticity have not been required in an act considered as furnishing cause for the continuance of the Orders in Council, as an act which, by the very terms of those orders, challenged their revocation. The act of the 5th of August, 1810, emanating from the Sovereign of France, officially communicated to the British Government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French decrees, while full proof of their continuance is inferred from a report, which, from its very nature, must contain the mere opinions and speculations of a subject, which is destitute of all authority until acted upon by the body to which it was presented, which has found its way hither in no more authentic shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed. But even were the value thus assigned to the report just, it is still difficult to discover what inference can be fairly deduced from it incompatible with the previous declarations and conduct of the French Government, exempting the United States from the operation of its decrees. The very exception in that report, with regard to nations which do not suffer their flag to be denationalized, was undoubtedly made with a reference to the United States, and with a view to reconcile the general tenor of that report with the good faith

with which it became France to observe the conventional repeal of those decrees in their favor. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be interpreted to accord with the engagements of the French Government, and with justice and good faith.

Your Lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same Conservative Senate, on the 13th of December, 1810, by the Duke of Cadore, (the predecessor of the present French Minister of Exterior Relations,) and by the Count de Simonville. In these reports, they say to the Emperor, (which sufficiently proves that such reports are not to be considered as dictated by him,) "Sire, as long as England shall persist in her Orders in Council, so long your Majesty will persist in your decrees;" and, "the decrees of Berlin and Milan are an answer to the Orders in Council; the British Cabinet has, thus to speak, dictated them to France. Europe receives them for her code, and this code shall become the palladium of the seas." Surely this language is as strong as that of the report of the 10th of March, and still more absolute, for there is no qualification in favor of any nation; yet this language has, both by an explanation from the Duke of Cadore to me at the time, and by the uniform conduct of the French Government since, been reconciled with the repeal of these decrees, so far as they concerned the United States.

Had the French decrees originally afforded an adequate foundation for the British orders, and been continued after these reports, in their full force and extent, surely, during a period in which above a hundred American vessels and their cargoes have fallen a prey to these orders, some one solitary instance of capture and confiscation must have happened under those decrees. That no such instance has happened incontrovertibly proves, either that those decrees are of themselves harmless, or that they have been repealed; and, in either case, they can afford no rightful plea or pretext to Great Britain for these measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those decrees, which is still in force, and which consists of municipal regulations, confined in their operation within the proper and undeniable jurisdiction of the States where they are executed, the United States have no concern. Nor do they acknowledge themselves to be under any particular obligation either to examine into the ends proposed to be attained by the surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done, in regard to other nations, by this system, cannot be imputed to the United States; nor are they to be made responsible, while they religiously observe the obligations of their neutrality, for the mode in which belligerent nations may choose to exercise their power for the injury of each other. When, however, these nations exceed the just

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limits of their power, by the invasion of the rights of peaceful States on the ocean, which is subject to the common and equal jurisdiction of all nations, the United States cannot remain indifferent, and, by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights. France has respected these rights, by the discontinuance of her edicts on the high seas; leaving no part of these edicts in operation, to the injury of the United States, and, of course, no part in which they can be supposed to acquiesce, or against which they can be required to contend. They ask of Great Britain, by a like respect for their rights, to exempt them from the operation of her Orders in Council. Should such exemption involve the total practical extinction of these orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they had not a single feature of resemblance to the decrees against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, and to which they believed themselves to be entitled by all these considerations of right and promise, which I have feebly stated to your Lordship. With what disappointment, therefore, must they learn that Great Britain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her Orders in Council, until some authentic act, hereafter to be promulgated by the French Government, shall declare the Berlin and Milan decrees to be expressly and unconditionally repealed! To obtain such an act, can the United States interfere? Would such an interference be compatible either with a sense of justice, or with what is due to their own dignity? Can they be expected to falsify the repeated declarations of their satisfaction with the act of the 5th of August, 1810, confirmed by abundant evidence of its subsequent observance, and, by now affecting to doubt of the sufficiency of that act, to demand another, which, in its form, its mode of publication, and its import, shall accord with the requisitions of Great Britain? And can it be supposed that the French Government would listen to such a proposal, made under such circumstances, and with such a view?

While, therefore, I can perceive no reason, in the report of the French Minister of the 10th of March, to believe that the United States erroneously assumed the repeal of the French decrees to be complete, in relation to them, while aware that the condition on which the revocation of the Orders in Council is now distinctly made to depend, is the total repeal of both the Berlin and Milan decrees, instead, as formerly, of the Berlin decree only, and while I feel that to ask the performance of this condition from others is inconsistent with the honor of the United States, and to perform it themselves beyond their power, your Lordship will permit me frankly to avow that I cannot accompany the communication to my Government of the declaration and Order in Council of the 21st of this month, with any felicitation on the prospect which this measure pre-

sents of an accelerated return of amity and mutual confidence between the two States.

It is with real pain that I make to your Lordship this avowal; and I will seek still to confide in the spirit which your Lordship, in your note, and in the conversation of this morning, has been pleased to say actuates the Councils of His Royal Highness in relation to America, and still to cherish a hope that this spirit will lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object; and that this object will no longer be made to depend on the conduct of a third Power, or upon contingencies over which the United States have no control, but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both. I have the honor to be, my Lord, &c.

JONATHAN RUSSELL.

Lord Viscount CASTLEREAGH, &c.

Mr. Russell to the Secretary of State.

LONDON, April 26, 1812.

SIR: I beg leave to hand you, herewith, a declaration and an Order in Council of this Government of the 21st of this month, and a copy of a note* from Lord Castlereagh, accompanying the communication of them to me. I have already transmitted to you other copies of these documents, and have now to add a copy of the note which I have addressed in reply to that of his Lordship. I have, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

DECLARATION.

The Government of France having, by an official report, communicated by its Minister for Foreign Affairs to the Conservative Senate, on the 10th day of March last, removed all doubts as to the perseverance of that Government in the assertion of the principles, and in the maintenance of a system not more hostile to the maritime rights and commercial interests of the British Empire, than inconsistent with the rights and independence of neutral nations; and having thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce; His Royal Highness the Prince Regent, acting in the name and on behalf of His Majesty, deems it proper, upon this formal and authentic republication of the principles of those decrees, thus publicly to declare His Royal Highness's determination still firmly to resist the introduction and establishment of this arbitrary code, which the Government of France openly avows its purpose to impose, by force, upon the world as the law of nations.

From the time that the progressive injustice and violence of the French Government made it impossible for His Majesty any longer to restrain the exercise of the rights of war within

* This note was accidentally omitted in this despatch, but was forwarded by that of May 2.

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their ordinary limits, without submitting to consequences not less ruinous to the commerce of his dominions than derogatory to the rights of his Crown, His Majesty has endeavored, by a restricted and moderate use of those rights of retaliation, which the Berlin and Milan decrees necessarily called into action, to reconcile neutral States to those measures, which the conduct of the enemy had rendered unavoidable, and which His Majesty has at all times professed his readiness to revoke, so soon as the decrees of the enemy which gave occasion to them should be formally and unconditionally repealed, and the commerce of neutral nations be restored to its accustomed course.

At a subsequent period of war, His Majesty, availing himself of the then situation of Europe, without abandoning the principle and object of the Orders in Council of November, 1807, was induced so to limit their operation, as materially to alleviate the restrictions thereby imposed upon neutral commerce. The Order in Council of April, 1809, was substituted in the room of those of November, 1807, and the retaliatory system of Great Britain acted no longer on every country in which the aggressive measures of the enemy were in force, but was confined in its operation to France, and to the countries upon which the French yoke was most strictly imposed, and which had become virtually a part of the dominions of France.

The United States of America remained, nevertheless, dissatisfied; and their dissatisfaction has been greatly increased by an artifice too successfully employed on the part of the enemy, who has pretended, that the decrees of Berlin and Milan were repealed, although the decree effecting such repeal has never been promulgated; although the notification of such pretended repeal distinctly described it to be dependent on conditions in which the enemy knew Great Britain could never acquiesce, and although abundant evidence has since appeared of their subsequent execution.

But the enemy has at length laid aside all dissimulation; he now publicly and solemnly declares, not only that those decrees still continue in force, but that they shall be rigidly executed until Great Britain shall comply with additional conditions, equally extravagant; and he further announces the penalties of those decrees to be in full force against all nations which shall suffer their flag to be, as it is termed in this new code, "denationalized."

In addition to the disavowal of the blockade of May, 1806, and of the principles on which that blockade was established, and in addition to the repeal of the British Orders in Council, he demands an admission of the principles, that the goods of an enemy carried under a neutral flag shall be treated as neutral; that neutral property under the flag of an enemy shall be treated as hostile; that arms and warlike stores alone (to the exclusion of ship timber and other articles of naval equipment) shall be regarded as contraband of war; and that no ports shall be

considered as lawfully blockaded, except such as are invested and besieged, in the presumption of their being taken, (*en prévention d'être pris*), and into which a merchant ship cannot enter without danger.

By these and other demands, the enemy, in fact, requires that Great Britain and all civilized nations shall renounce, at his arbitrary pleasure, the ordinary and indisputable rights of maritime war; that Great Britain, in particular, shall forego the advantages of her naval superiority, and allow the commercial property, as well as the produce and manufactures of France and her confederates to pass the ocean in security, while the subjects of Great Britain are to be in effect proscribed from all commercial intercourse with other nations; and the produce and manufactures of these realms are to be excluded from every country in the world to which the arms or the influence of the enemy can extend.

Such are the demands to which the British Government is summoned to submit, to the abandonment of its most ancient, essential, and undoubted maritime rights. Such is the code by which France hopes, under the cover of a neutral flag, to render her commerce unassailable by sea, while she proceeds to invade or to incorporate with her own dominions all States that hesitate to sacrifice their national interests at her command, and, in abdication of their just rights, to adopt a code by which they are required to exclude, under the mask of municipal regulation, whatever is British from their dominions.

The pretext for these extravagant demands is, that some of these principles were adopted by voluntary compact in the Treaty of Utrecht; as if a treaty once existing between two particular countries, founded on special and reciprocal considerations, binding only on the contracting parties, and which in the last treaty of peace between the same Powers had not been revived, were to be regarded as declaratory of the public law of nations.

It is needless for His Royal Highness to demonstrate the injustice of such pretensions. He might otherwise appeal to the practice of France herself, in this and in former wars, and to her own established codes of maritime law. It is sufficient that these new demands of the enemy form a wide departure from those conditions on which the alleged repeal of the French decrees was accepted by America, and upon which alone, erroneously assuming that repeal to be complete, America has claimed a revocation of the British Orders in Council.

His Royal Highness, upon a review of all these circumstances, feels persuaded that so soon as this formal declaration by the Government of France, of its unabated adherence to the principles and provisions of the Berlin and Milan decrees, shall be made known in America, the Government of the United States, actuated not less by a sense of justice to Great Britain than by what is due to its own dignity, will be disposed to recall those measures of hostile exclusion, which, under a misconception of the real views and conduct of the French Government,

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America has exclusively applied to the commerce and ships of war of Great Britain.

To accelerate a result so advantageous to the true interests of both countries, and so conducive to the re-establishment of perfect friendship between them, and to give a decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's Government, by revoking the Orders in Council whenever the French decrees shall be actually and unconditionally repealed, His Royal Highness the Prince Regent has been this day pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's Privy Council, to order and declare:

That if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the Order in Council of the 7th day of January, 1807, and the Order in Council of the 26th day of April, 1809, shall, without any further order be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked; and further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although, antecedent to such repeal, such ship or vessel shall have commenced, and shall be in the prosecution of a voyage which, under the said Orders in Council, or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured or brought to adjudication, on account of any alleged breach of either of the said Orders in Council, at any time subsequent to such authentic act of repeal by the French Government, shall, without any further order or declaration on the part of His Majesty's Government on this subject, be at liberty to give in evidence in the High Court of Admiralty or any Court of Vice-Admiralty, before which such ship or cargo shall be brought for adjudication, that such repeal by the French Government had been by such authentic act promulgated prior to such capture; and upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said Orders in Council had never been made; saving, nevertheless, to the captors, such protection and indemnity as they may be equitably entitled to, in the judgment of the said court, by reason of their ignorance or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's Government at the time of such capture.

His Royal Highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy, and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

WESTMINSTER, April 21, 1812.

At the Court at Carlton House, the 21st of April, 1812: Present, His Royal Highness, the Prince Regent, in Council:

Whereas, the Government of France has, by an official report, communicated by its Minister for Foreign Affairs to the Conservative Senate, on the 10th of March last, removed all doubts as to the perseverance of that Government in the assertion of principles, and in the maintenance of a system not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations, and has thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce:

And whereas His Majesty has invariably professed his readiness to revoke the Orders in Council adopted thereupon, as soon as the said decrees of the enemy should be formally and unconditionally repealed, and the commerce of neutral nations restored to its accustomed course:

His Royal Highness, the Prince Regent, anxious to give the most decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's Government, is pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's Privy Council, to order and declare, and it is hereby ordered and declared, that if, at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the Order in Council of the seventh day of January, one thousand eight hundred and seven, and the Order in Council of the twenty-sixth day of April, one thousand eight hundred and nine, shall, without any further order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked: And further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although, antecedent to such repeal, such ship or vessel shall have commenced, and shall be in the prosecution of a voyage which, under the said Orders in Council, or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo, which shall be captured or brought to adjudication, on account of any alleged breach of either of the said Orders in Council, at any time subsequent to such authentic act of repeal by the French Government, shall, without any further order or declaration on the part of His Majesty's Government on this subject, be at liberty to give in evidence in the High Court of Admiralty, or any Court of Vice-Admiralty before which such ship or cargo shall be brought for adjudication, that such repeal by the French Government had been, by such authentic act, promulgated prior to such capture; and, upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said Orders in Council had never been made; saving, nevertheless, to the captors such protec-

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tion and indemnity as they may be equitably entitled to in the judgment of the said court; by reason of their ignorance, or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's Government at the time of such capture.

His Royal Highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy, and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

And the Right Honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

CHETWYND.

Mr. Russell to the Secretary of State.

LONDON, *May 2, 1812.*

SIR: After closing the duplicate of my letter to you of the 26th ultimo, I discovered the copy of the note of Lord Castlereagh to me of the 21st had been left out by mistake. I take the liberty, therefore, of now handing it to you.

I am, with the highest consideration, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

[Enclosed in Mr. Russell's letter of 2d May, 1812.]

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *April 21, 1810.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, is commanded by His Royal Highness, the Prince Regent, to transmit to Mr. Russell, *Chargé d'Affaires* of the Government of the United States of America, the enclosed copy of a declaration, accompanying an Order in Council, which has been this day passed by His Royal Highness, the Prince Regent in Council.

The undersigned is commanded by the Prince Regent to request that Mr. Russell, in making this communication to his Government, will represent this measure as conceived in the true spirit of conciliation, and with a due regard, on the part of His Royal Highness, to the honor and interests of the United States; and the undersigned ventures to express his confident hope that this decisive proof of the amicable sentiments which animate the councils of His Royal Highness towards America may accelerate the return of amity and mutual confidence between the two States.

The undersigned avails himself of this opportunity to repeat to Mr. Russell the assurances of his high consideration.

CASTLEREAGH.

Mr. Russell to Mr. Monroe.

LONDON, *May 25, 1812.*

SIR: I have the honor to hand you herein a copy of my note of the 20th of this month, communicating to Lord Castlereagh a decree of the French Government, dated the 28th of February, 1811, and of two letters of the French Ministers of the 25th of December, 1810. I also send you copies of that decree, and of a note from his Lordship acknowledging the receipt of my communication, and engaging to submit the documents above-mentioned to His Royal Highness the Prince Regent. I have the honor, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, Esq., &c.

[Enclosed in Mr. Russell's despatch of May 25.]

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET, *May 20, 1812.*

The undersigned *Chargé d'Affaires* of the United States of America, has the honor to transmit to Lord Castlereagh authentic copies of a decree purporting to be passed by the Emperor of the French, on the 28th of April, 1811, of a letter addressed by the French Minister of Finance to the Director General of the Customs on the 28th December, 1810, and of another letter of the same date, from the French Minister of Justice to the President of the Council of Prizes.

As these acts explicitly recognise the revocation of the Berlin and Milan decrees, in relation to the United States, and distinctly make this revocation to take effect from the 1st November, 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to His Britannic Majesty's Government, remove all doubt with respect to the revocation in question; and, joined with the all powerful considerations of justice and expediency so often suggested, lead to like repeal of the British Orders in Council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require. The undersigned avails himself, &c.

JONATHAN RUSSELL.

PALACE OF ST. CLOUD, *April 28, 1811.*

NAPOLEON, *Emperor of the French, &c.*

On the report of our Minister of Foreign Relations:

Seeing by a law passed on the 2d March, 1811, the Congress of the United States has ordered the execution of the provisions of the act of non-intercourse which prohibits the vessels and merchandise of Great Britain, her colonies, and dependencies, from entering into the ports of the United States:

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British Orders in Council, and a formal refusal to adhere to a system invading the independence of neutral Powers and of their flag; we have ordered and do decree as follows:

The decrees of Berlin and Milan are defini-

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tively, and to date from 1st November last, considered as not existing in regard to American vessels.

NAPOLEON.

By the Emperor:

The Minister Secretary of State,

THE COUNT DARA.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *May 23, 1812.*

Lord Castlereagh presents his compliments to Mr. Russell, and has the honor to acknowledge the receipt of his official note of the 20th instant, transmitting copies of two official letters of the French Ministers, and of a decree of the French Government, bearing date the 28th of April, 1811. Lord Castlereagh will immediately lay these documents before His Royal Highness the Prince Regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

JONATHAN RUSSELL, Esq.

Mr. Russell to the Secretary of State.

LONDON, *June 26, 1812.*

SIR: I have the honor to hand to you, herein, an Order of Council of the 23d of this month, revoking the Orders in Council of the 7th of January, 1807, and of the 26th of April, 1809.

To this decree I have added copies of two notes of the same date from Lord Castlereagh, accompanying the communication of it to me, and also a copy of my answer.

With great respect and consideration, I am, &c.

JONATHAN RUSSELL.

At the Court at Carlton House, June 23, 1812: Present, His Royal Highness the Prince Regent in Council.

Whereas, His Royal Highness the Prince Regent was pleased to declare, in the name and on the behalf of His Majesty, on the 21st day of April, 1812, "that if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the Order in Council of the 7th of January, 1807, and the Order in Council of the 26th of April, 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked:"

And whereas the Chargé de Affaires of the United States of America, resident at this Court, did, on the 20th day of May last, transmit to Lord Viscount Castlereagh, one of His Majesty's principal Secretaries of State, a copy of a certain instrument then for the first time communicated to this Court, purporting to be a decree passed by the Government of France on the 28th day of April, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vessels:

And whereas His Royal Highness the Prince Regent, although he cannot consider the tenor

of the said instrument as satisfying the conditions set forth in the same order of the 21st day of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations upon its accustomed principles: His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, is therefore pleased, by and with the advice of His Majesty's Privy Council, to order and declare, and it is hereby ordered and declared, that the Order in Council bearing date the 7th day of January, 1807, and the Order in Council bearing date the 26th day of April, 1809, be revoked, so far as may regard American vessels, and their cargoes, being American property, from the 1st day of August next.

But whereas, by certain acts of the Government of the United States of America, all British armed vessels are excluded from the harbors and waters of the said United States, the armed vessels of France being permitted to enter therein, and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored, His Royal Highness the Prince Regent is pleased hereby further to declare, in the name and on the behalf of His Majesty, that if the Government of the said United States shall not, as soon as may be after this order shall have been duly notified by His Majesty's Minister in America to the said Government, revoke, or cause to be revoked, the said acts, this present order shall, in that case, after due notice signified by His Majesty's Minister in America to the said Government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels, and their cargoes, being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid Orders in Council alone, and which shall not have been actually condemned before the date of this order, and that all ships and cargoes, as aforesaid, that shall henceforth be captured under the said orders prior to the 1st day of August next, shall not be proceeded against to condemnation till further orders; but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall have been justly incurred.

Provided that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part the Orders in Council of the 11th of November, 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may be entitled under the Order in Council of the 21st April, 1812.

His Royal Highness is hereby pleased further to declare, in the name and on the behalf of His Majesty, that nothing in this present order contained shall be understood to preclude His Royal

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Highness the Prince Regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th January, 1807, and the 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy as may appear to His Royal Highness to be just and necessary.

And the Right Honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice Admiralty, are to take the necessary measures herein as to them may respectively appertain.

JAMES BULLER.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *June 23, 1812.*

SIR: I am commanded by the Prince Regent to transmit to you, for your information, the enclosed printed copy of an Order in Council which His Royal Highness, acting in the name and on behalf of His Majesty, was this day pleased to issue for the revocation (on the conditions therein specified) of the Orders in Council of the 17th January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

I have the honor to be, &c.

CASTLEREAGH.

JONATHAN RUSSELL, Esq., &c.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *June 23, 1812.*

SIR: In communicating to your Government the Order in Council of this date, revoking (under certain conditions therein specified) those of January 7th, 1807, and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the Prince Regent's Ministers have taken the earliest opportunity, after the resumption of the Government, to advise His Royal Highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and His Royal Highness hopes that this proceeding, on the part of the British Government, may accelerate a good understanding on all points of difference between the two States.

I shall be happy to have the honor of seeing you at the Foreign Office at 2 o'clock to-morrow, and beg to apprise you that one of His Majesty's vessels will sail for America with the despatches of the Government in the course of the present week. I have the honor to be, &c.

CASTLEREAGH.

JONATHAN RUSSELL, Esq., &c.

Mr. Russell to Lord Castlereagh.

18 BENTINCK STREET, *June 26, 1812.*

MY LORD: I have the honor to acknowledge

the receipt of the two notes addressed to me by your Lordship on the 23d of this month, enclosing an Order in Council, issued that day by His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty, for the revocation (on the conditions therein specified) of the Orders in Council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

In communicating this document to my Government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by His Royal Highness the Prince Regent, that it may accelerate a good understanding on all points of difference between the two States. I am the more encouraged to believe that these hopes will not be disappointed, from the assurances which your Lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your Lordship, the blockade of the 16th May, 1806, had been merged in the Orders in Council, now revoked, and extinguished with them; and that no condition contained in the order of the 23d instant is to be interpreted to restrain the Government of the United States from the exercise of its right to exclude British armed vessels from the harbors and waters of the United States, whenever there shall be special and sufficient cause for so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Britain. This assurance, I am happy to consider as evidence of a conciliatory spirit, which will afford, on every other point of difference, an explanation equally frank and satisfactory. I am, &c.

JONATHAN RUSSELL.

Mr. Russell to the Secretary of State.

LONDON, *July 2, 1812.*

SIR: I avail myself of the opportunity afforded by the British packet to transmit to you a copy of a note from Lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledge the receipt of this note, as you will observe by the enclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment concerning the legality of that blockade, which, as no new doctrine appears to be assumed, is made to depend on the fact—the application of an adequate force.

In like manner I have forbore to notice his Lordship's observations concerning the exclusion from our ports of British vessels of war. As such exclusion is required to accord with the obligations of strict neutrality only, the conduct and character of the Government of the United States furnish security against any question arising on that subject.

I have the honor to be, &c.

JONATHAN RUSSELL.

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Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *June 29, 1812.*

Lord Castlereagh has the honor to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by Lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, Lord Castlereagh begs leave to re-state to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time: the general retaliatory blockade of the enemy's ports, established under the Orders in Council of November, 1807, having rendered the enforcement of it by His Majesty's ships of war no longer necessary; and that His Majesty's Government have no intention of recurring to this or to any other blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the Order in Council, without a new notice to neutral Powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbors and waters of the United States, Lord Castlereagh informs Mr. Russell, that this claim is made in consequence of His Majesty's ships being now excluded, whilst those of the enemy are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favor of the enemy incompatible with the obligation of strict neutrality. Were the exclusion general, the British Government would consider such a measure, on the part of America, as matter of discussion between the two States, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of high consideration.

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET, *July 2, 1811.*

Mr. Russell has the honor to acknowledge the receipt of the note of Lord Castlereagh, dated the 29th ultimo, containing explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his Government.

Mr. Russell begs leave to avail himself of this occasion to repeat to Lord Castlereagh the assurances of his high consideration.

II.—*Correspondence between the British Minister at Washington and the Secretary of State of the United States.*

Mr. Foster Envoy Extraordinary and Minister Plenipotentiary of Great Britain, to James Monroe, Secretary of State of the United States.

WASHINGTON, *July 2, 1811.*

SIR: I have the honor to inform you that I have received the special commands of His Roy-

al Highness the Prince Regent, acting in the name and on the behalf of His Majesty, to make an early communication to you of the sentiments which His Royal Highness was pleased, on the part of His Majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His Royal Highness signified to Mr. Pinkney the deep regret with which he learned that Mr. Pinkney conceived himself to be bound by the instructions of his Government to take his departure from England.

His Royal Highness informed Mr. Pinkney that one of the earliest acts of his Government, in the name and on the behalf of His Majesty, was to appoint an Envoy Extraordinary and Minister Plenipotentiary to the Government of the United States; and added that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His Royal Highness further declared to Mr. Pinkney that he was most sincerely and anxiously desirous, on the part of His Majesty, to cultivate a good understanding with the United States, by every means consistent with the preservation of the maritime rights and interests of the British Empire.

His Royal Highness particularly desired that Mr. Pinkney would communicate these declarations to the United States in the manner which might appear best calculated to satisfy the President of His Royal Highness's solicitude to facilitate an amicable discussion with the Government of the United States upon every point of difference which had arisen between the two Governments. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 3, 1811.*

SIR: I have the honor of stating to you, verbally, the system of defence to which His Majesty has been compelled to resort, for the purpose of protecting the maritime rights and interests of his dominions against the new description of warfare that has been adopted by his enemies. I have presented to you the grounds upon which His Majesty finds himself still obliged to continue that system, and I conceive that I shall best meet your wishes, as expressed to me this morning, if in a more formal shape I should lay before you the whole extent of the question as it appears to His Majesty's Government to exist between Great Britain and America.

I beg leave to call your attention, sir, to the principles on which His Majesty's Orders in Council were originally founded. The decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise, although France had not the means of imposing an actual blockade in any degree adequate to such a purpose. The immediate and professed

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object of this hostile decree was the destruction of all British commerce, through means entirely unsanctioned by the law of nations, and unauthorized by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war, would have justified Great Britain in retaliating upon the enemy by a similar interdiction of all commerce with France and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain was not, however, the destruction of trade, but its preservation, under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right; our prohibition of French trade was not absolute, but modified; and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen and deeply regretted. But the injury to the neutral nation arose from the aggression of France, which had compelled Great Britain, in her own defence, to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is therefore to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain which that aggression had rendered necessary and just.

The object of our system was merely to counteract an attempt to crush the British trade; Great Britain endeavored to permit the Continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system by new orders or modes of granting or withholding licenses, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the public safety of the nation.

The justification of His Majesty's Orders in Council, and the continuance of that defence, have always been rested upon the existence of the decrees of Berlin and Milan, and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the Continent; and it has always been declared, on the part of His Majesty's Government, that whenever France should have effectually repealed the decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood previously to the promulgation of those decrees, we should immediately repeal our Orders in Council.

France has asserted that the decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French Government has insisted that our system of blockade, as it existed previously to the decree of Berlin, was a manifest violation of the received law of nations. We must, therefore, sir, refer to the articles of the Berlin decree to find the principles of our system of blockade, which France considers to be new, and contrary to the law of nations.

By the fourth and eighth articles, it is stated, as a justification of the French decree, that Great Britain "extends to unfortified towns and commercial ports, to harbors, and to the mouths of rivers, those rights of blockade, which, by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade ought to be limited to fortresses really invested by a sufficient force."

It is added, in the same articles, that Great Britain "has declared places to be in a state of blockade before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade, entire coasts and a whole Empire."

Neither the practice of Great Britain nor the law of nations has ever sanctioned the rule now laid down by France, that no place, excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any port of the Continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime States.

It was evident that the blockade of May, 1806, was the principal pretended justification of the decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any color for the proceedings of France.

In point of date the blockade of May, 1806, preceded the Berlin decree; but it was a just and legal blockade according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast, described in the notification, and, consequently, to enforce the blockade.

Great Britain has never attempted to dispute that, in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, was notified by Mr. Secretary Fox on this clear principle; nor was that blockade announced until he had satisfied himself, by a communication with His Majesty's Board of Admiralty, that the Admiralty possessed the means, and would employ them, of watching the whole coast, from Brest to the Elbe, and of effectually enforcing the blockade.

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The blockade of May, 1806, was, therefore, (according to the doctrine maintained by Great Britain,) just and lawful in its origin, because it was supported, both in intention and fact, by an adequate naval force. This was the justification of that blockade until the period of time when the Orders in Council were issued.

The Orders in Council were founded on a distinct principle—that of defensive retaliation. France had declared a blockade of all the ports and coasts of Great Britain and her dependencies, without assigning, or being able to assign, any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the Orders in Council, the blockade of May, 1806, has been sustained and extended by the more comprehensive system of defensive retaliation, on which those regulations are founded. But if the Orders in Council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May, 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin decree respecting the rights of blockade are not directly asserted by the American Government, Mr. Pinkney's correspondence would appear to counteract the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May, 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that, therefore, it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations.

Reviewing the course of this statement, it will appear that the blockade of May, 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared or insinuated by the American Government, because that blockade was maintained by a sufficient naval force; that the decree of Berlin was not therefore justified, either under the pretexes alleged by France, or under those supported by America; that the Orders in Council were founded on a just principle of defensive retaliation against the violation of the law of nations committed by France, in the decree of Berlin; that the blockade of May, 1806, is now included in the more extensive operation of the Orders in Council; and, lastly, that the Orders in Council will not be continued beyond the effectual duration of the hostile decrees of France, nor will the blockade of May, 1806, continue after the repeal of the Orders in Council, unless His Majesty's Government shall think fit to sustain it by

the special application of a sufficient naval force. This fact will not be suffered to remain in doubt; and if the repeal of the Orders in Council should take place, the intention of His Majesty's Government respecting the blockade of May, 1806, will be notified at the same time.

I need not recapitulate to you the sentiments of His Majesty's Government, so often repeated, on the subject of the French Minister's note to General Armstrong, dated the 5th of last August. The studied ambiguity of that note has since been amply explained by the conduct and language of the Government of France, of which one of the most remarkable instances is to be found in the speech of the Chief of the French Government, on the 17th of last month, to certain deputies from the free cities of Hamburg, Bremen, and Lubeck, wherein he declares that the Berlin and Milan decrees shall be the public code of France as long as England maintains her Orders in Council of 1806 and 1807; thus pronouncing, as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him until the defensive measures of retaliation to which they gave rise on the part of Great Britain shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious decrees, they may be discovered in the Imperial edict dated at Fontainebleau, on October 19, 1810, that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all countries subject to, allied with, or within reach of, the power of France; in the report of the French Minister for Foreign Affairs, dated last December; and in the letter of the French Minister of Justice to the President of the Council of Prizes. To this latter, sir, I would wish particularly to invite your attention; the date is the 25th of December; the authority it comes from most unquestionable; and you will there find, sir, the Duke of Massa, in giving his instructions to the Council of Prizes, in consequence of the President of the United States' proclamation of November 3d, most cautiously avoiding to assert that the French decrees were repealed, but to the ambiguous passage which he quotes at length from Mr. Champagny's letter of August 5th, the new attitude taken by America; and you will also find an evidence in the same letter of the continued capture of American ships after November 1st, and under the Berlin and Milan decrees, having been contemplated by the French Government, since there is a special direction given for judgment on such ships being suspended, in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can, then, sir, those decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain? Are they so at this moment? To the first question the State papers which I have referred to appear to give a sufficient answer; for, even supposing that the re-

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peal had since taken place, it is clear that on November 3d there was no question as to that not being then the case; the capture of the ship *New Orleans Packet*, seized at Bordeaux, and of the *Grace Ann Greene*, seized at or carried into Marseilles, being cases arising under the French decrees of Berlin and Milan, as is very evident. Britain might therefore complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends that the French decrees are revoked as it respects her ships upon the high seas; and you, sir, inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1st, have been restored; but may they not have been restored in consequence of the satisfaction felt in France at the passing of the non-importation act in the American Congress, an event so little to be expected: for otherwise, having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy, however, prevents many cases of the kind occurring on the ocean under the decrees of Berlin and Milan; but the most obnoxious and destructive parts of those decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst feature of those extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent, and monstrous system of attack upon her resources, a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain, under the provisions of the French decrees, but, construing those decrees as extinct, upon a deceitful declaration of the French Cabinet, she has enforced her non-importation act against Great Britain.

Under these circumstances, I am instructed by my Government to urge to that of the United States the injustice of thus enforcing that act against His Majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' Government to reconsider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, sir, that, on my part, I shall ever be ready to meet you on any opening which may seem to afford a prospect of restoring complete harmony between the two countries, and that it will at all times give me the greatest satisfaction to treat with you on the important concerns so interesting to both. I have, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe Secretary of State, to Mr. Foster.

DEPARTMENT OF STATE, *July 6, 1811.*

SIR: I have had the honor to receive your letter of the 2d instant, in which you express the

regret of His Royal Highness the Prince Regent at the departure of the American Minister from Great Britain, and state that it was one of the first acts of his Government to appoint an Envoy Extraordinary and Minister Plenipotentiary to the Government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that he was solicitous to facilitate an amicable discussion with the Government of the United States, upon every point of difference which had arisen between the two Governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made of the disposition of His Royal Highness the Prince Regent to cultivate friendship with the United States, and to assure you that the prompt and friendly measure which he has adopted, by the appointment of an Envoy Extraordinary and Minister Plenipotentiary to this country, to maintain the relations of friendship, and facilitate an amicable discussion on every point of difference that had arisen between the two Governments, is considered as a favorable and interesting proof of that disposition.

I am also instructed by the President to state his ready disposition to meet in a similar spirit these frank and friendly assurances of the Prince Regent, and that nothing will be wanting on his part, consistent with the rights of the United States, that may be necessary to promote the re-establishment, in all respects, of that good understanding between the two countries which he considers to be highly important to the interests of both.

Permit me to add, sir, that if, as the organ of my Government, I can be in any degree instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 7, 1811.*

SIR: I beg leave to acknowledge the receipt of your letter, dated yesterday, in answer to mine of the 2d instant, and to assure you that it gives me very sincere pleasure to have to transmit, for the purpose of being laid before His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, so satisfactory a testimony of the amicable manner in which the President of the United States has received the instances and assurances of a friendly disposition on the part of His Royal Highness towards the United States which, by command of His Royal Highness, I had the honor to communicate to the President through you.

The assurances which you have added, sir, of the gratification that you would yourself derive, if, as the organ of your Government, you could be instrumental towards re-establishing a good

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understanding between both our countries, are too congenial with my own feelings on the subject not to be received with very high satisfaction. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, *Sec'y of State.*

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 11, 1811.*

SIR: In consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle on which His Majesty's Orders in Council were originally founded, I think it right to explain myself, in order to prevent any possible mistake as to the present situation of neutral trade with His Majesty's enemies.

It will only be necessary for me to repeat, what has already long since been announced to the American Government, namely, that His Majesty's Orders in Council of April 26, 1809, superseded those of November, 1807, and relieved the system of retaliation adopted by his Majesty against his enemies from what was considered in this country as the most objectionable part of it—the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty.

This explanation, sir, will, I trust, be sufficient to do away any impression that you have received to the contrary from my observations respecting the effects which his Majesty's Orders in Council originally had on the trade of neutral nations. Those observations were merely meant as preliminary to a consideration of the question now at issue between the two countries.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 14, 1811.*

SIR: His Majesty's packet-boat having been so long detained, and a fortnight having elapsed since my arrival at this capital, His Royal Highness the Prince Regent will necessarily expect that I should have to transmit to His Royal Highness some official communication as to the line of conduct the American Government mean to pursue. I trust you will excuse me, therefore, sir, if, without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the Government of France, that the decrees of Berlin and Milan are still in full force, and the acts of that Government have corresponded with those avowals.

The measures of retaliation pursued by Great Britain against those decrees are, consequently,

to the great regret of His Royal Highness, still necessarily continued.

I have had the honor to state to you the light in which His Royal Highness the Prince Regent viewed the proclamation of the President of last November, and the surprise with which he learned the subsequent measures of Congress against the British trade.

American ships seized under His Majesty's Orders in Council, even after that proclamation appeared, were not immediately condemned, because it was believed that the insidious professions of France might have led the American Government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French ruler himself avowed the continued existence of his unvariable system, it was not expected by His Royal Highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French Government to cast away all consideration of the rights of nations in the unprecedented warfare they have adopted.

America, however, still persists in her injurious measures against the commerce of Great Britain, and His Royal Highness has in consequence been obliged to look to means of retaliation against those measures which His Royal Highness cannot but consider as most unjustifiable.

How desirable would it not be, sir, if a stop could be put to any material progress in such a system of retaliation, which from step to step may lead to the most unfriendly situation between the two countries.

His Majesty's Government will necessarily be guided in a great degree by the contents of my first despatches as to the conduct they must adopt towards America.

Allow me then, sir, to repeat my request to learn from you whether I may not convey to His Royal Highness what I know would be most grateful to His Royal Highness's feelings, namely, the hope that he may be enabled, by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that he ever was obliged to have any other object in view besides that of endeavoring to promote the best understanding possible between the two countries. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *July 15, 1811.*

SIR: The reasoning and scope of the two letters I have had the honor to receive from you, dated on the 3d and 14th instant, rest essentially on a denial that the French decrees of Berlin and Milan are repealed. These decrees comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the

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tenor of your communications, you will pardon the request I have the honor to make, of an explanation of the precise extent in which a repeal of the French decrees is made a condition of the repeal of the British orders; and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports, in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions or manufactures. I have the honor to be, &c.

JAMES MONROE.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 16, 1811.

SIR: I had the honor to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my letters of the 31 and 14th instant, of the precise extent in which a repeal of the French decrees is, by His Majesty's Government, made a condition of the repeal of the British orders, and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions or manufactures; and also stating that, in your view of the French decrees, they comprise regulations essentially different in their principles, some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

You will permit me, sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French decrees themselves, together with the official declarations of the French Minister which accompanied them.

In the body of those decrees, and in the declarations alluded to, you will find, sir, express avowals that the principles on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice and the principles and usages of all civilized nations.

The French Government did not pretend to say that any one of the regulations contained in those decrees was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were, indeed, allowed by France herself to be, all of them parts of a new system of warfare, unauthorized by the established laws of nations.

It is in this light, in which France has herself placed her decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorized by the laws of nations, and practised in former wars, will never be complained of by Great Britain. but the regula-

tions of the Berlin and Milan decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking, through them, the resources of Great Britain. The Ruler of France has not drawn any distinction between any of them, nor has he declared the cessation of any one of them in the speech which he so lately addressed to the deputation from the free Imperial Hanse Towns, which was, on the contrary, a confirmation of them all.

Not until the French decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can His Royal Highness conceive himself justified, consistently with what he owes to the safety and honor of Great Britain, in foregoing the just measures of retaliation which His Majesty, in his defence, was necessitated to adopt against them.

I trust, sir, that this explanation, in answer to your inquiries, will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall, with the greatest cheerfulness, afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President in restoring the relations of amity which should ever subsist between America and Great Britain, as the delusions attempted by the Government of France have now been made manifest, and the perfidious plans of its Ruler exposed, by which, while he adds to and aggravates his system of violence against neutral trade, he endeavors to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only Power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, sir, if I express my wish as early as possible to despatch His Majesty's packet-boat with the result of our communications, as His Majesty's Government will necessarily be most anxious to hear from me. Any short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, July 23, 1811.

SIR: I have submitted to the President your several letters of the 3d and 16th of this month, relative to the British Orders in Council, and the blockade of May, 1806, and I have now the honor to communicate to you his sentiments on the view which you have presented of those measures of your Government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting between our countries, on the ground on which alone it is possible to meet you. It is regretted that you have confined yourself to a vindication of measures which produced some of them.

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The United States are as little disposed now as heretofore to enter into the question concerning the priority of aggression by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the Orders in Council, I must be permitted to remark that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May, 1806, which was prior to the first of the French decrees, would not be legal unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied, and continued, in the requisite strictness, until that blockade was comprised in and superseded by the orders of November of the following year, or even until the French decree of the same year, will not, I presume, be alleged.

But, waiving this question of priority, can it be seen, without both surprise and regret, that it is still contended that the Orders in Council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her decrees? A retaliation is, in its name, and its essential character, a returning a like for like. Is the deadly blow of the Orders in Council against one-half of our commerce a return of like for like to an empty threat in the French decrees against the other half? It may be a vindictive hostility as far as its effect falls on the enemy. But when falling on a neutral, who, on no pretext, can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked that the Orders in Council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States, with nations which, like Russia, had not adopted the French decrees, and with all nations which had merely excluded the British flag; an exclusion resulting, as a matter of course, with respect to whatever nation with which Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these orders, which permits neutrals to prosecute their trade with the Continent through Great Britain, in the favorable light in which you represent it. It is impossible to proceed to notice the effect of this modification, without expressing our astonishment at the extravagance of the political pretension set up by it: a pretension which is utterly incompatible with the sovereignty and independence of other States. In a commercial view it is not less objectionable, as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France; nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports would have, therefore, the commercial effect of depriving the United States altogether of the market of her enemy for their productions and of destroying their

value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former the advantages of peace while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it was at variance with justice and public law.

Against this unjust system the United States entered, at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deemed most consistent with the rights and the policy of the nation. Remote from the contentious scene which desolates Europe, it has been their uniform object to avoid becoming a party to the war. With this view they have endeavored to cultivate friendship with both parties, by a system of conduct which ought to have produced that effect. They have done justice to each party in every transaction in which they have been separately engaged with it. They have observed the impartiality which was due to both as belligerents standing on equal ground, having, in no instance, given a preference to either at the expense of the other. They have borne, too, with equal indulgence, injuries from both, being willing, while it was possible, to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have, in all respects, maintained pacific relations with both parties. The alternative presented by their late acts was offered equally to both, and could operate on neither, no longer than it should persevere in its aggressions on our neutral rights. The embargo and non-intercourse were pacific measures. The regulations which they imposed on our trade were such as any nation might adopt in peace or war, without offence to any other nation. The non-importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the Orders in Council and blockade of May, 1806, the British Government, in conformity to the principle on which the Orders in Council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also that the British Government would proceed *pari passu* with the Government of France in the revocation of her edicts. I will proceed to show that the obligation on Great Britain to revoke her orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the act of May 1, 1810, it is provided that

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if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and the other party should not, within three months thereafter, revoke or modify its edicts in like manner, that then certain sections in a former act, interdicting the commercial intercourse between the United States and Great Britain and France and their dependencies, should, from and after the expiration of three months from the date of the proclamation, be revived, and have full force against the former, its colonies, and dependencies, and against all articles, the growth, produce, or manufacture of the same.

The violations of neutral commerce, alluded to in this act, were such as were committed on the high seas. It was in the trade between the United States and the British dominions that France had violated the neutral rights of the United States by her blockading edicts. It was in the trade with France and her allies that Great Britain had committed similar violations by similar edicts. It was the revocation of those edicts, so far as they committed such violations, which the United States had in view when they passed the law of May 1, 1810.

On the 5th August, 1810, the French Minister of Foreign Affairs addressed a note to the Minister Plenipotentiary of the United States at Paris, informing him that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November following; that the measure had been taken by his Government in confidence that the British Government would revoke its orders, and renounce its new principle of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1, 1810.

This measure of the French Government was founded on the law of May 1, 1810, as is expressly declared in the letter of the Duke of Cadore announcing it. The edicts of Great Britain, the revocation of which were expected by France, were alluded to in that act; and the means by which the United States should cause their rights to be respected, in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the non-importation act against Great Britain in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French decrees, was communicated to this Government, in consequence of which the President issued a proclamation on the 2d of November, the day after that on which the repeal of the French decrees was to take effect, in which he declared that all the restrictions imposed by the act of May 1, 1810, should cease and be discontinued in relation to France and her dependencies. It was a necessary consequence of this proclamation, also, that, if Great Britain did not revoke her edicts, the non-importation law would operate against her at the end of three months. This actually took place. She declined the revocation, and, on the 2d of February last,

that law took effect. In confirmation of the proclamation, the act of Congress was passed on the 2d March following.

Great Britain still declines to revoke her edicts, on the pretension that France has not revoked hers. Under that impression, she infers that the United States have done her injustice by carrying into effect the non-importation law against her.

The United States maintain that France has revoked her edicts, so far as they violated their neutral rights and were contemplated by the law of May 1, 1810, and have, on that ground, particularly claimed and do expect of Great Britain a similar revocation.

The revocation announced officially by the French Minister of Foreign Affairs to the Minister Plenipotentiary of the United States at Paris, on the 5th August, 1810, was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared that she would proceed *pari passu* in the repeal with France, and, the day being fixed when the repeal of the French decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her orders. Had this been done, the proclamation of the President would have announced the revocation of the edicts of both Powers at the same time, and, in consequence thereof, the non-importation law would have gone into operation against neither. Such, too, is the natural course of proceeding in transactions between independent States, and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other for a like performance. The United States having made a proposal to both belligerents, were bound to accept a compliance from either; and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other public acts. Even when nations are at war, and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same. If distrust and jealousy are allowed to prevail, the moral tie which binds nations together in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her Orders in Council with reluctance, because of their distressing effect on neutral Powers. Here, then, was a favorable opportunity presented to her to withdraw from that measure with honor, be the conduct of France afterwards what it might. Had Great Britain revoked her Orders, and France failed to fulfil her engagement, she would have gained credit at the expense of France, and could have sustained no injury by it, because the failure of France to maintain her faith would have replaced Great Britain at the point from which she had departed. To say that a disap-

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pointed reliance on the good faith of her enemy would have reproached her foresight, would be to set a higher value on that quality than on consistency and good faith, and would sacrifice to a mere suspicion towards an enemy the plain obligations of justice towards a friendly Power.

Great Britain has declined proceeding *pari passu* with France, in the revocation of their respective edicts. She has held aloot, and claims of the United States proof, not only that France has revoked her decrees, but that she continues to act in conformity with the revocation.

To show that the repeal is respected, it is deemed sufficient to state that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the first of November last. The New Orleans Packet from Gibraltar to Bordeaux was detained, but never condemned. The Grace Ann Greene, from the same British port to Marseilles, was likewise detained, but afterwards delivered up, unconditionally to the owner, as was such part of the cargo of the New Orleans Packet as consisted of the produce of the United States. Both these vessels, proceeding from a British port, carried cargoes, some articles of which, in each, were prohibited by the laws of France, or admissible by the sanction of the Government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain as a violation of our neutral rights. No such cause would be afforded, even in a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the decrees, so far as it is a proper subject of discussion between us, it might reasonably be expected that you would produce some examples of vessels taken at sea in voyages to British ports or on their return home, and condemned under them by a French tribunal. None such have been afforded by you; none such are known to this Government.

You urge only, as an evidence that the decrees are not repealed, the speech of the Emperor of France to the deputies from the free cities of Hamburg, Bremen, and Lubec; the imperial edict, dated at Fontainebleau on the 19th of October, 1810; the report of the French Minister of Foreign Affairs, dated in December last; and a letter of the Minister of Justice to the President of the Council of Prizes of the 25th of that month.

There is nothing in the first of these papers incompatible with the revocation of the decrees, in respect to the United States. It is distinctly declared by the Emperor, in his speech to the deputies of the Hanse Towns, that the blockade of the British Islands shall cease when the British blockades cease; and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretension, as France admits

the United States will do by enforcing the non-importation act. The same sentiment is expressed in the report of the Minister of Foreign Affairs. The decree of Fontainebleau, having no effect on the high seas, cannot be brought into this discussion. It evidently has no connexion with neutral rights. The letter from the Minister of Justice to the President of the Council of Prizes is of a different character. It relates, in direct terms, to this subject, but not in the sense in which you understand it. After reciting the note from the Duke of Cadore, of the 5th of August last, to the American Minister at Paris, which announced the repeal of the French decrees, and the proclamation of the President in consequence of it, it states that all the causes arising under those decrees after the 1st November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the decrees, but be suspended until the 2d February, when, the United States having fulfilled their engagement, the captures shall be declared void, and the vessels and their cargoes delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the decrees, so far as relates to the United States. By instructing the French tribunal to make no decision until the 2d of February, and then to restore the property to the owners on a particular event, which has happened, all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of that property, but that is an injury which affects them only. Great Britain has no right to complain of it. She was interested only in the revocation of the decrees, by which neutral rights would be secured from future violation; or, if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her orders until the 2d of February. From that day, at furthest, the French decrees would cease. At the same day ought her orders to have ceased. I might add to this statement, that every communication received from the French Government, either through our representative there, or its representative here, are in accord with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But it will suffice to remark, that the best and only adequate evidence of their ceasing to operate is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge is proof of the fulfilment. Every case occurring, to which, if the decrees were in force, they would be applied, and to which they are not applied, is a proof that they are not in force. And if these proofs have not been more multiplied, I need not remind you that a cause is to be found in the numerous captures under your Orders in Council, which continue to evince the rigor with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her Orders

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in Council until the commerce of the Continent is restored to the state in which it stood before the Berlin and Milan decrees issued; until the French decrees are repealed, not only as to the United States, but so as to permit Great Britain to trade to this Continent. Is it, then, meant that Great Britain should be allowed to trade with all the Powers with whom she traded at that epoch? Since that time, France has extended her conquests to the North, and raised enemies against Great Britain where she then had friends. Is it proposed to trade with them, notwithstanding the change in their situation? Between the enemies of one date and those of another no discrimination can be made. There is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies there can be no commerce; the vessels of either, taken by the other, are liable to confiscation, and are always confiscated; the number of enemies or extent of country which they occupy cannot affect the question. The laws of war govern the relation which subsists between them, which, especially in the circumstance under consideration, are invariable. They were the same in times the most remote that they now are. Even if peace had taken place between Great Britain and the Powers of the Continent, she could not trade with them without their consent. Or does Great Britain contend that the United States, as a neutral Power, ought to open the Continent to her commerce on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it founded in any recognised principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favor, though neutral. When advanced in favor of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every Power, where not restrained by treaty, has a right to regulate its trade with other nations in such manner as it finds most consistent with its interest; to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants or encourage the industry of its people. In what light would Great Britain view an application from the United States for the repeal, of right, of any act of her Parliament which prohibited the importation of any article from the United States, such as their fish or their oil? or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar application, made at the instance of France, for the importation into England of any article the growth or manufacture of that Power, which it was the policy of the British Government to prohibit?

If delays have taken place in the restitution of American property, and in placing the American commerce, in the ports of France, on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone

are interested. As they do not violate the revocation by France of her edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British Government of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the third and sixteenth instant, and which, if persisted in by your Government, present such an obstacle to the wishes of the United States for a removal of the difficulties, which have been connected with the Orders in Council. It is the interest of belligerents to mitigate the calamities of war, and neutral Powers possess ample means to promote that object, provided they sustain, with impartiality and firmness, the dignity of their station. If belligerents expect advantage from neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example. The ground thus gained will soon be enlarged by the concurring and pressing interests of all parties; and whatever is gained, will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is viewed in a more favorable light. The President has received, with great satisfaction, the communication, that, should the Orders in Council of 1807 be revoked, the blockade of May of the preceding year would cease with them, and that any blockade which should be afterwards instituted should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the Prince Regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries; and, when followed by the revocation of the Orders in Council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law, by an exercise of the power vested in the President for that purpose.

I conclude, with remarking that, if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight in any degree of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this Government has thus far separated the cases of the Orders in Council from others;

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and because, with respect to these others, your communication has not afforded any reasonable prospect of resuming them at this time with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the Prince Regent to remove so material a difficulty as had arisen in relation to a repeal of the Orders in Council, will lead to a more favorable further consideration of the remaining difficulties on that subject; and that the advantages of an amicable adjustment of every question depending between the two countries will be seen by your Government in the same light as they are by that of the United States. I have the honor to be, &c.

JAMES MONROE.

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 24, 1811.*

SIR: Having been unable to ascertain distinctly, from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan decrees, which you believe has taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the non-importation act, allow me to repeat my question to you on this point, as contained in my letter of the 14th instant, before I proceed to make any comments on your answer.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, *Sec. of State.*

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *July 26, 1811.*

SIR: I had the honor to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you, in my letter of the 23d instant, that, under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the 2d of March last; that France having accepted the proposition made by a previous law equally to Great Britain and to France, and having revoked her decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this Government to fulfil its engagement, and to declare the non-importation law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the law of May 1, 1810, was offered equally to both Powers, there was cause to presume that Great Britain would have accepted it; in which event the non-importation law would not have operated against her.

It is in the power of the British Government, at this time, to enable the President to set the non-importation law aside, by rendering to the United States an act of justice. If Great Britain

will cease to violate their neutral rights by revoking her Orders in Council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honor to make to you, of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your Government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, *Esq., &c.*

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 26, 1811.*

SIR: I have had the honor to receive your letter of July 23d, in answer to mine of the 3d and 14th instant, which, give me leave to say, were not merely relative to His Majesty's Orders in Council, and the blockade of May, 1806, but also to the President's proclamation of last November, and to the subsequent act of Congress of March 2d, as well as to the just complaints which His Royal Highness the Prince Regent had commanded me to make to your Government with respect to the proclamation and to that act.

If the United States Government had expected that I should have made communications which would have enabled them to come to an accommodation with Great Britain on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France, I am at a loss to discover from what source they could have derived those expectations; certainly not from the correspondence between the Marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments that are brought forward by you to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first, in regard to the blockade of May, 1806, I must aver that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the unqualified inference, that should the Orders in Council of 1807 be revoked, the blockade of May, 1806, would cease with them. It is most material, that, on this point, no mistake should exist between us. From your letter it would appear as if, on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our Orders in Council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of His Majesty's Government at the United States having taken up the view

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which the French Government presented of our just and legitimate principles of blockade which are exemplified in the blockade of May, 1806, the whole ground taken by His Majesty's Government was at once abandoned. When I had the honor to exhibit to you my instructions, and to draw up, as I conceived, according to your wishes and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorize such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May, 1806, will not continue after the repeal of the Orders in Council, unless His Majesty's Government shall think fit to sustain it by the special application of a sufficient naval force; and the fact of its being so continued or not, will be notified at the time. If, in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States Government waiving all further reference to that blockade when they can be justified in asking a repeal of the orders, and I may communicate this to my Government, it will undoubtedly be very satisfactory; but I beg distinctly to disavow having made any acknowledgment that the blockade would cease merely in consequence of a revocation of the Orders in Council; whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words, for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain such as you say excited a painful surprise in your Government. There is no new pretension set up by His Majesty's Government. In answer to questions of yours as to what were the decrees or regulations of France which Great Britain complained of, and against which she directed her retaliatory measures, brought distinctly into your view the Berlin and Milan decrees; and you have not denied, because, indeed, you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her Ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe, I willingly agree with you; but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honorable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous. But Great Britain does contend against the system of

error put in practice by France, by which, usurping authority wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries as well as individuals that they should possess articles, however acquired, which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension every feeling must revolt, and the honor no less than the interest of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority relative to the French decrees or British Orders in Council. It was clearly proved that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavor to have it considered otherwise. Why America took up the view the French Government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications, at various times, of our system of retaliation will require the less reply from the circumstance of the Order in Council of April, 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original Orders on neutral commerce; the incidental effect of those orders on neutrals having been always sincerely regretted by His Majesty's Government; but when it was found that neutrals objected to them they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self-defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relation with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country as exemplified in the non-importation law, I lament to say I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and, consequently, to dispute the justice of the proclamation itself.

You urge, sir, that the British Government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, and she means to keep to that declaration.

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I have stated to you that we could not consider the letter of August 5th, declaring the repeal of the French edicts, provided we revoked our Orders in Council, or America resented our not doing so, as a step of that nature; and the French Government knew that we could not; their object was evidently, while their system was adhered to in all its rigor, to endeavor to persuade the American Government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States Government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May, 1810. I readily believe, indeed, that such cases are rare, but it is owing to the preponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, and my Government has believed, that the American Legislatures had in view, in the provisions of their law as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her Government which infringed their neutral rights.

We have had no evidence as yet of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the decrees in respect to the United States, in his expressions to the deputies from the free cities of Hamburg, Bremen, and Lubeck; that it is distinctly stated in that speech that the blockade of the British islands shall cease when the British blockades cease; and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretensions.

It is to be inferred from this, and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade which are those unauthorized by the established law of nations, France will still maintain her decrees of Berlin and Milan, which, indeed, the speech in question declares to be the fundamental laws of the French Empire.

I do not, I confess, conceive how these avowals of the Ruler of France can be said to be compatible with the repeal of his decrees, in respect to the United States. If the United States are

prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then, indeed, they may avoid the operation of the French decrees; but otherwise, according to this document, it is very clear that they are still subjected to them.

The decree of Fontainebleau is confessedly founded on the decrees of Berlin and Milan, dated the 19th October, 1810, and proves their continued existence. The report of the French Minister of December 8th, announcing the perseverance of France in her decrees, is still further in confirmation of them, and a reperusal of the letter of the Minister of Justice of the 25th of last December confirms me in the inference I drew from it; for otherwise, why should that Minister make the prospective restoration of American vessels taken after the 1st November to be a consequence of the non-importation law, and not of the French revocation. If the French Government had been sincere, they would have ceased infringing on the neutral rights of America after the 1st November; that they violated them, however, after that period, is notorious.

Your Government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French Minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either country would, in the end, be the victims, as many are already, in all probability, who, from a misconstruction of the meaning of the French Government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her Cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those of Rambouillet or of Bayonne, to the system of exclusion or of licenses, all measures of France against the American commerce; in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France, on the principles of her decrees, since the 1st November. You allow, however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods not the produce of America was seized, and the other part, together with the vessel itself, only released after the President's proclamation became known in France. These circumstances surely only prove the difficulties that France is under in reconciling her anti-commercial and anti-neutral system with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, sir, through the whole range of your argument, and, on reviewing the course of it, I think I may securely

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say that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France; but, on the contrary, that it appears they continue in full force; consequently, that no grounds exist on which you can with justice demand of Great Britain a revocation of her Orders in Council. That we have a right to complain of the conduct of the American Government in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, though it was notorious, at the time, that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country but through licenses publicly sold by her agents; and that all the suppositions you have formed of innovations on the part of Great Britain, or of her pretensions to trade with her enemies, are wholly groundless. I have also stated to you the view His Majesty's Government has taken of the question of the blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States Government persevering in their union with the French system for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy, or interest can suggest, there appears to be such a call upon America to give up this system, which favors France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress meet a new view may be taken of the subject by the President, which will lead to a more happy result. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Oct. 1, 1811.

SIR: I have had the honor to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a complaint that I had omitted to reply in mine of the 23d of July to your remonstrance against the proclamation of the President of November last, and to the demand which you had made, by the order of your Government, of the repeal of the non-importation act of March 2d of the present year.

My letter has certainly not merited this imputation.

Having shown the injustice of the British Government in issuing the Orders in Council, on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing, in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your Government accommodated in nothing, the United States should relinquish the ground which,

by a just regard to the public rights and honor, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a Government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States, on the principles of justice, to the revocation of the Orders in Council. Your demand, however, was neither unnoticed nor unanswered. In laying before you the complete, and, as was believed, irresistible proof on which the United States expected and called for the revocation of the Orders in Council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint, that I misunderstood that passage which claimed, as a condition of the revocation of the Orders in Council, that the trade of Great Britain with the Continent should be restored to the state in which it was before the Berlin and Milan decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade, in British property, with British vessels, directly with your enemies. Such a claim, you admit, would be preposterous. But you do insist, by necessary implication, that France has no right to inhibit the importation into her ports of British manufactures, or the produce of the British soil, when the property of neutrals; and that, until France remove that inhibition, the United States are to be cut off by Great Britain from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France. Nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be set up, nor even thought of. Has Great Britain then acquired, in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that, unless they consent to become the instruments of this policy, their commerce shall be annihilated, their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace; and if they are, whether it be of right, or by the consent and policy of the British Government?

That the property would be neutralized does not affect the question. If the United States have no right to carry their own productions into France without the consent of the French Government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what

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powers, the trade to the Continent is prohibited. If the Powers who prohibit it are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act; and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation, and under the influence of France, the most that can be said is, that it justifies reprisal against them by a similar measure. On no principle whatever can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the Continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those Powers will consent to it. But they cannot undertake to force such supplies on France, or on any other Power, in compliance with the claim of the British Government, on principles incompatible with the rights of every independent nation; and they will not demand in favor of another Power what they cannot claim for themselves.

All that Great Britain could with reason complain of was, the inhibition, by the French decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France ought, in like manner, to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respective acts, violating neutral rights, it has afforded just cause of complaint, and even of astonishment, to the United States, that the British Government should have sanctioned the seizure and condemnation of American vessels, under the Orders in Council, after the revocation of the French decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared, finally, that France had failed to perform her engagement, it might at least have been expected that Great Britain would not have molested such of the vessels of the United States as might be entering the ports of France, on the faith of both Governments, until that failure was clearly proved. To many insinuations in your letter I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1, 1810, and France had rejected it, there is cause to doubt that the non-importation act would have been carried into effect against France? No such doubt can possibly exist, because, in a former instance, when the Government, trusting to a fulfilment by yours of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her decrees, as it was not doubt-

ed that England had done. Has it not been repeatedly declared to your Government, that if Great Britain would revoke her Orders in Council, the President would immediately cause the non-importation act to cease? You well know that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the Orders in Council are at end.

By the remark in your letter of the 3d of July, that the blockade of May, 1806, had been included in the more comprehensive system of the Orders in Council of the following year, and that, if that blockade should be continued in force after the repeal of the Orders in Council, it would be in consequence of the special application of a sufficient naval force, I could not but infer your idea to be, that the repeal of the Orders in Council would necessarily involve the repeal of the blockade of May. I was the more readily induced to make this inference from the consideration, that, if the blockade was not revoked by the repeal of the Orders in Council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that, according to the decision of your Court of Admiralty, a blockade instituted by proclamation does not cease by the removal of the force applied to it, nor without a formal notice by the Government to that effect.

It is not, however, wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to show, and it has already been abundantly shown, that the blockade of May, 1806, is inconsistent, in any view that may be taken of it, with the law of nations. It is also easy to show that, as now expounded, it is equally inconsistent with the sense of your Government when the order was issued; and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the order, you will find that it is, strictly, little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it in favor of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral Powers are permitted by it to take from their own ports every kind of produce without distinction as to its origin, and to carry it to the Continent, under that limitation, and with the exception only of contraband of war and enemies' property, and to bring thence to their own ports in return whatever articles they think fit. Why were contraband of war and enemies' property excepted, if a commerce even in those articles would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

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Why, then, did the British Government institute a blockade which, with respect to neutrals, was not vigorous, as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer. A controversy had taken place between our Governments on a different topic, which was still depending. The British Government had interfered with the trade between France and her allies in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your Government, professing its willingness to make a satisfactory arrangement of it, issued the order, which allowed trade, without making any concession as to the principle; reserving that for the adjustment by treaty. It was in this light that I viewed, and in this sense that I represented, that order to my Government; and in no other did I make any comment on it.

When you reflect that this order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our Governments, and of which their citizens extensively availed themselves; that that trade and the question of blockade, and every other question in which the United States and Great Britain were interested, were then in a train of amicable negotiation, you will, I think, see the cause why the Minister who then represented the United States with the British Government did not make a formal complaint against it. You have appealed to me, who happened to be that Minister, and urged my silence as an evidence of my approbation of, or at least, acquiescence in, the blockade. An explanation of the cause of that supposed silence is not less due to myself than to the true character of the transaction. With the Minister with whom I had the honor to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or that no complaint was made. In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing, certainly, can be inferred from anything that has passed relative to the blockade of May, 1806, to countenance such an inference.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character whenever that adequate force ceases to be applied. As it cannot

be alleged that the application of any such adequate force has been continued, and actually exists, in the case of the blockade of May, 1806, it would seem to be a fair inference that the repeal of the Orders in Council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the Orders in Council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the application of an adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the Orders in Council. Whenever any blockade is instituted, it will be a subject for consideration; and if the blockade be in conformity to the law of nations, there will be no disposition in this Government to contest it. I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Oct. 17, 1811.

SIR: I have the honor to communicate to you a copy of two letters from the Chargé des Affaires of the United States at Paris, to their Chargé des Affaires at London, and a copy of a correspondence of the latter with the Marquis Wellesley on the subject. By this it will be seen that Mr. Smith was informed by the Marquis Wellesley, that he should transmit to you a copy of the communication from Paris, that it might have full consideration in the discussion depending here.

Although an immediate repeal was to have been expected from your Government, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory, yet it will be agreeable to learn that you are now authorized to concur in an arrangement that will terminate both the Orders in Council and the non-importation act. I have the honor to be &c.

JAMES MONROE.

P. S. Hearing that you will not be in town for several days, this letter, and one bearing date on the 1st of this month, which I had prepared, and intended to deliver to you on my return here, are forwarded by a special messenger.

AUGUSTUS J. FOSTER, Esq., &c.

[Referred to in Mr. Monroe's letter of Oct. 17.]

Mr. Russell to Mr. Smith.

PARIS, July 5, 1811.

SIR: I observe, by your letter of the 7th ultimo, your solicitude to obtain evidence of the revocation of the Berlin and Milan decrees.

On the 5th of August last the Duke of Cadore announced to General Armstrong that these decrees were revoked, and that they would cease to operate on the 1st of November. Since the 1st of November these decrees have not to my knowledge, in any instance, been executed to the prejudice of American property arriving since that time. On the contrary, the Grace Ann Greene,

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coming clearly within the penal terms of those decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had, indeed, been taken by the English, and retaken from them; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the Grace Ann Greene, that of the New Orleans Packet must have resulted from the revocation of the French edicts.

The New Orleans Packet had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the decree of Milan. On arriving at Bordeaux she was in fact seized by the director of the customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bordeaux, I remonstrated against it on the sole ground that the decrees, under which it was made, had been revoked. This remonstrance was heard. All further proceedings against the New Orleans Packet were arrested, and on the 9th of January both the vessel and cargo were ordered to be placed at the disposition of the owners, on giving bond. This bond has since been cancelled by an order of the Government, and thus the liberation of the property perfected. The New Orleans Packet has been some time waiting in the Garonne with her return cargo on board, for an opportunity only of escaping the English Orders in Council.

I know of no other American vessel arrived voluntarily in the Empire of France or the Kingdom of Italy since the 1st of November, to which the decrees of Berlin and Milan could be applied.

I am, sir, very respectfully, &c.

JONATHAN RUSSELL.

JOHN S. SMITH, Esq.,
Chargé d'Affaires, at London.

[Referred to in Mr. Monroe's letter of Oct. 17.]

Mr. Russell to Mr. Smith.

PARIS, *July 14, 1811.*

SIR: I had the honor to address to you on the 5th instant a brief account of the Grace Ann Greene, and of the New Orleans Packet. The proof which these cases furnish, especially the latter, ought, when unopposed as it is by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force, these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the Two Brothers, the Good Intent, and the Star, three American vessels captured since the 1st of November, and brought into this Empire, or into ports under its control. I should no doubt have been able to have announced the release, by one general decision of every American vessel captured since that period, if the only inquiry were whether or not they had violated the Berlin and Milan decrees. Unfortunately, however, the practices of late

years render the question of property extremely difficult to be satisfactorily decided. Amidst false papers and false oaths, after the most minute and tedious investigation, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connexion with the Berlin and Milan decrees and cannot be considered as evidence of their continuance. It is possible that these decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the Continent; and to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it, on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral Power, which the act of her enemy does not effect. It is sufficient for us that the Berlin and Milan decrees have ceased to be executed on the high seas; and if the Orders in Council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you of the revocation of the Berlin and Milan decrees consists in the precise and formal declarations of this Government in its discontinuance to execute them to our prejudice in a single instance; in its having exempted from their operation every vessel arriving spontaneously since the 1st of November, to which they could be applied; and every vessel forcibly brought in since that time, on which there has been a decision. After such evidence, to pretend to doubt of their revocation with regard to us would seem to be the result of something more than mere incredulity. With much respect, &c.

JONATHAN RUSSELL.

JOHN S. SMITH, Esq.,
Chargé d'Affaires, U. S., London.

[Referred to in Mr. Monroe's letter of Oct. 17, 1811.]

Mr. Smith to the Marquis Wellesley.

BENTINCK STREET, *July 23, 1811.*

MY LORD: The letter which I have the honor to present to your Lordship has been just received by me from Mr. Russell. So full and complete is this document, that I conceived it quite unnecessary to add any comments or remarks of my own. I shall, however, have much pleasure in furnishing any other explanations in my power, either verbal or written, that your Lordship may desire.

Any doubts that may have existed here of the effectual repeal of the decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the Orders in Council, which affect the neutral commerce of the United States. I need not assure your Lordship of the great satisfaction I shall have in communicating this event to my Government.

As the "Orders in Council" have been ever declared by His Majesty's Government to be only

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of a retaliatory character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist, I trust that no argument is necessary to show, if your Lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment on the part of France of her decrees, that the "Orders in Council" should be so revoked as to embrace the American vessels that have been captured by British cruisers since the 1st of November, the period at which the French edicts were revoked.

I have the honor to subjoin to this the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Greene* had been captured by an English cruiser, was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were notwithstanding admitted.

The *New Orleans Packet* had been boarded by two English cruisers, and had been also at an English port; thus doubly transgressing against the French edicts. She arrived at Bordeaux, was seized by the director of the customs for these transgressions, but, on the remonstrance of Mr. Russell, was immediately released, and has been admitted, vessel and cargo. I have the honor to be, &c.

J. S. SMITH.

[Referred to in Mr. Monroe's letter of Oct. 17, 1811.]

Lord Wellesley to Mr. Smith.

FOREIGN OFFICE, *August 8, 1811.*

SIR: Your letter of the 23d ultimo has been under the consideration of His Royal Highness the Prince Regent, and has received all the attention to which it is entitled.

I am commanded by His Royal Highness to acquaint you, that he has thought fit to postpone the answer to your letter, until advices, which are hourly expected from Mr. Foster, shall have been received. I have the honor to be, &c.

WELLESLEY.

[Referred to in Mr. Monroe's letter of Oct. 17, 1811.]

Lord Wellesley to Mr. Smith.

FOREIGN OFFICE, *August 14, 1811.*

SIR: Since the date of my last letter I have the honor to inform you, that I have received a letter from Mr. Foster, His Majesty's Minister in America, by which it appears that he had actually commenced a negotiation with the Government of the United States respecting the British Orders in Council. His despatches containing the particulars of the negotiation have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its enclosure, to Mr. Foster, in order that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honor to be, &c.

WELLESLEY.

Mr. Foster to Mr. Monroe.

WASHINGTON, *Oct. 22, 1811.*

SIR: I had the honor to receive your letter of the 17th instant, together with its three enclosures,

on the road between Baltimore and this city. I had that of receiving, at the same time, your letter dated October 1, in answer to mine of the 26th of last July.

Not having had any despatches from His Majesty's Government lately, I have not, as yet, received the copy of the recent communication from Paris, in regard to the supposed repeal of the French decrees, which the *Chargé d'Affaires* of the United States at London has intimated to you that he understood the Marquis Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russell, the American *Chargé d'Affaires* in France. I am, however, in daily expectation of the arrival of His Majesty's packet boat, when it will, in all probability, reach me; and when, if I should receive any fresh instructions in consequence, I will not fail immediately to acquaint you. In the meanwhile, however, I beg you will permit me to make some remarks in reply to your letter of October 1, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the non-importation act of the present year.

It is, I assure you, sir, with very great regret, that I find you consider that demand as involving, in any degree, propositions tending to degrade your nation. Such an idea certainly never existed with His Majesty's Government, nor would it be compatible with the friendly sentiments entertained by them for the United States; neither could I have suffered myself to be the channel of conveying a demand which I thought had such a tendency. However you may view the demand made on the part of Great Britain, I can safely say, that it was made in consequence of its appearing to His Majesty's Government, on strong evidence, that the Chief of the French nation had really deceived America as to the repeal of his decrees, and in the hopes that the United States' Government would therefore see the justice of replacing this country on its former footing of amicable relations with England; nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, sir, that your candor would allow you, on a reconsideration, to put any other construction on the matter; and had my arguments had sufficient weight with you, in showing that the French decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew. It would seem, therefore, only owing to your not viewing the deceitful conduct of the French Government in the same light that it appears to His Majesty's Government, that a difference of opinion exists between us as to the proposal I made, which, under the conviction entertained by them, was surely a very just and natural one.

From the earnest desire of vindicating myself and my Government from the charge of making

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any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far, and I will now proceed to show why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the Marquis Wellesley gave to Mr. Pinkney, in answer to his letter of August 25, 1810; and I beg to refer you to the Message of the President of the United States, on the opening of Congress in December, 1810, for a proof that the demand of Great Britain, in the extent in which I have stated it, was known to your Government several months ago. How was I, therefore, to suppose, in the term innovations, as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade? If the warmth I was betrayed into in endeavoring to refute a supposed imputation of this sort gave any offence, I sincerely regret it; and I will beg permission here to say, sir, that, if unconsciously I have, by any of my remarks, led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you personally, and for your Government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France in her conduct towards the United States with that of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that has arisen out of the war in Europe, it would seem needless to repeat the evidence there is that the lawless and unbounded ambition of the ruler of France has been the origin of it; and it cannot be a secret to the United States Government that his plan has been, and avowedly continues to be, not to scruple at the violation of any law, provided he can thereby overthrow the maritime power of England. Is it not, therefore, reasonable in Great Britain to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the decrees of Berlin and Milan are revoked. America, as not being at war, and therefore not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, sir, it surely cannot be expected that Great Britain, who is contending for everything that is dear to her, should not require more proof on a point so material to her. It is, undoubtedly, a very desirable thing for the United States to have a free and unrestricted trade with both belligerents; but the essential security, and most important interests of America, are not involved in the question, as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain; and before the British Government can with

safety give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation by France of her novel and unprecedented measures.

I confess, sir, with the sincerest disposition to discover on the part of the ruler of France a return to the long established practice of warfare, as exercised in civilized Europe, I have been unable to succeed; and if the French Government had really meant to withdraw their obnoxious decrees, it is inconceivable why, instead of allowing their intention to be guessed at, or inferred, they should not openly, and in plain language, have declared so. The decrees themselves having been clearly enough announced on their enactment, why should not their revocation be equally explicit?

While, however, numerous declarations have been made, on the part of France, of the continued existence of the decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1st have been restored, and the foregoing, a very small part of his plunder, is defined by Bonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected, that, besides the object of ruining the British resources by his own unauthorized regulations, he has also that of endeavoring to obtain the aid of the United States for the same purpose; and here in you will, as I had the honor to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his Ministers.

I should be extremely happy, to receive from you, sir, the information that, in a frank and unambiguous manner, the Chief of the French Government had revoked his decrees. Why he should not do so is inexplicable, if he means to revert to the ordinary means of war; but while he exercises such despotic sway, wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe that ere long, the effect on the enemies of Great Britain will be such as irresistibly to produce a change, which will place commerce on its former basis. In the mean time, sir, I hope you will not think it extraordinary if I should contend that the seizure of American ships by France since November 1st, and the positive and unqualified declarations of the French Government, are stronger proofs of the continued existence of the French decrees, and the bad faith of the ruler of France than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation, or of his return to the principles of justice.

I will only repeat, sir, in answer to your observations on the late condemnation of the ships taken under His Majesty's Orders in Council, what I have already had the honor to state to you, that the delay which took place in their condemnation

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was not a consequence of any doubt existing in His Majesty's Government, as to whether the French decrees were revoked, as you seem to imagine; but in consequence of its being thought that the American Government, upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships; and there is no doubt but that, had the United States' Government not persisted in their unfriendly attitude towards Great Britain, on discovering the ill faith of France, a spirit of conciliation in His Majesty's Government would have caused their release.

In reply to your observations on the pretensions of Great Britain relative to the revocation of the French decrees, I beg to repeat that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her ruler, by his decrees of Berlin and Milan, declared himself no longer bound by them. He has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French Government make use of means of unprecedented violence to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war without retaliation, and endeavoring, in her turn, to prevent the French from enjoying the advantages of which she is unlawfully deprived?

Having explained already the situation in which the question of the blockade of May, 1806, rests, according to the views of His Majesty's Government, and the desire of Great Britain to conduct her system of blockade according to the law of nations, I will only advert to it on this occasion for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honorable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, sir, what sincere satisfaction it would give me, if, without the sacrifice of the essential rights and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Oct. 29, 1811.

SIR: I have had the honor to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our Governments, the respectful attention which each has a right to claim, and that no departure from

it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn, however, with much regret, that you have received no instructions from your Government founded on the new proof of the revocation of the Berlin and Milan decrees, which was communicated to the Marquis Wellesley by the American Chargé d'Affaires at London, in a document of which I had the honor to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document of the complete revocation of those decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the Orders in Council. From the reply of the Marquis Wellesley, it was at least to have been expected that no time had been lost in transmitting that document to you, and that the instructions accompanying it would have manifested a change in the sentiments of your Government on the subject. The regret, therefore, cannot but be increased in finding that the communication which I had the honor to make to you has not even had the effect of suspending your efforts to vindicate the perseverance of your Government in enforcing those orders.

I regret, also, to observe that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those orders are to be revoked than those that were furnished by your former communications. You still adhere to the pretension that the productions and manufactures of Great Britain, when neutralized, must be admitted into the ports of your enemies. This pretension, however vague the language heretofore held by your Government, particularly by the Marquis Wellesley, in his communications with Mr. Pinkney on the subject, was never understood to have been embraced. Nothing, indeed, short of the specific declarations which you have made would have induced a belief that such was the case.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, October 31, 1811.

SIR: I did not reply at great length to the observations contained in your letter of the 1st instant on the pretensions of Great Britain as relative to the French system, because you seemed to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow, in the face of facts, that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore

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thought fit to confine my answer to your remarks to a general statement of the sum of the demands of Great Britain, which was, that France should, by effectually revoking her decrees, revert to the usual method of carrying on war as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin in every part of the Continent, is one among the many violent innovations which are contained in the decrees, and which are preceded by the declaration of their being founded on a determination of the ruler of France, as he himself avowed, to revert to the principles which characterized the barbarism of the dark ages, and to forget all ideas of justice, and even the common feelings of humanity, in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Bonaparte to blockade her by both sea and land, but one of feeling and of national honor, contending, as we do, against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole Continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce, in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which, under our construction of the letter of M. Champagny of August 5, 1810, corroborated by many subsequent declarations of the French Government, and not invalidated by any unequivocal declaration of a contrary tenor, must be considered as still in full force.

In the communication which you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts which satisfactorily proved that the decrees had been actually repealed; and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken, in pursuance of the Berlin and Milan decrees, after November 1st. Mr. Russell does not seem to deny that the decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champagny's declaration, ambiguous as it was, there is no such division of them into two different characters; for, if the contingency required by the French Minister took place, the Berlin and Milan decrees were to cease, according to his expression, without any qualification. If, therefore, a part of them remain, or be revived again, as seems to be allowed even here, why may not the whole be equally so? Where proof can be obtained of their existence, we have it, namely, in the ports of France, in which vessels have been avowedly seized under their operation, since November 1st. Of their maritime existence we cannot so easily obtain evidence, because of the few French ships of war which venture to leave their

harbors. Who can doubt, however, but that, had the ruler of France a navy at his command equal to the enforcing of his violent decrees, he would soon show that part of them to be no dead letter. The principle is not the less obnoxious because it is, from necessity, almost dormant for the moment; nor ought it, therefore, to be less an object to be strenuously resisted.

Allow me, sir, here to express my sincere regret that I have not as yet been able to convince you, by what I cannot but consider the strongest evidence, of the continued existence of the French decrees, and, consequently, of the unfriendly policy of your Government in enforcing the non-importation act against us, and opening a trade with our enemies. His Royal Highness will, I am convinced, learn with unfeigned sorrow that such continues to be still the determination of America; and whatever restrictions on the commerce enjoyed by America in His Majesty's dominions may ensue on the part of Great Britain, as retaliatory on the refusal by your Government to admit the productions of Great Britain, while they open their harbors to those of His Majesty's enemies, they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished whenever this country shall resume her natural position and impartial attitudes between the two belligerents. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

HON. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, Dec. 17, 1811.

SIR: I did not mean to have written to you at this moment on the subject of our late correspondence, but that I have had the mortification to perceive statements, circulated from highly respectable sources, which give a view of the pretensions of Great Britain relative to the United States not warranted by any of the letters which I had the honor to address to you, and which, at a time when discussions are continuing so important to the two countries, might, if left unrectified, produce an effect highly to be lamented by both the American and British Governments, inasmuch as, by creating unnecessary irritation, they might throw obstacles in the way of a restoration to a friendly understanding between them.

I find it asserted, in the statement referred to, that I have, in the name of my Government, demanded that the United States' Government should pass a law for the introduction of British goods into the American ports; and, also, that the United States should undertake to force France to receive into her harbors British manufactures.

I beg permission, sir, to declare that neither of these demands have been made by me, and that my meaning must have been misunderstood, if such was conceived to have been its import. I could not have demanded the passage of such a law as above stated, because my Government does not pretend to interfere with the internal government of a friendly Power; nor did I mean to demand

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that America should force France to receive our manufactures.

All I meant to say was, that the admission of French commerce, while that of England has been excluded from the United States' ports, was regarded by Great Britain as highly unfriendly in America; and that a continuation of such policy would be retaliated upon by Great Britain with similar restrictions on her part; which was so far, merely, an offering of like for like. But while the American non-importation act excludes British trade from the United States' ports, it must be recollected that it goes still further, and excludes also British armed ships from American ports, while it admits those of the enemies of Great Britain. "A neutral nation is responsible for the equality of its rules of conduct towards the belligerent Powers," (to use the words of an American Secretary of State in the year 1796,) and, therefore, the part of the law which establishes an inequality was justly an object of more serious complaint on the part of Great Britain. You are aware, sir, of the advantage which His Majesty's enemies have derived from this state of inequality, which enables them, though possessing no port in this hemisphere, continually to prey on the trade of His Majesty's subjects, secure of a refuge for their cruisers and their prizes.

The prohibition of entry to His Majesty's ships, under these circumstances, might perhaps justify Great Britain in asserting, that, whatever reason she may have for repealing or modifying her Orders in Council, so as to lessen or entirely remove the pressure now unavoidably laid on the trade of America as a neutral nation, she might yet refuse to enter into any discussion on that subject with the United States, until, either by the revocation of the prohibition above stated, or the placing all the belligerents under the same prohibition, America should cease to violate the duties of a neutral nation.

With respect, however, to the supposed demand that America should force the entry of British manufactures into France, it is most particularly necessary that I should explain myself, as a total misconception appears to have taken place upon this point. The question of retaliation on the French decrees is directly one between England and France. In consequence of the extraordinary blockade of England, we have, in our defence, been obliged to blockade France, and prohibit all trade in French articles, in return for the prohibition of France of all trade in English articles. This measure of retaliation, it is wished, should operate on France alone; but, from the trade carried on with France by America, it unavoidably operates also on her. It is a measure to destroy the French trade, in return for the similar measure of France on which it is retaliatory; and its acting on neutrals is an incidental effect of it, consequent upon the submission of neutrals to the original measures of the enemy against Great Britain. It is, indeed, melancholy that the unnatural situation of Europe should produce such a result; but I cannot see how this can be considered as a war on American commerce, when all

other American trade but that which is carried on with our enemy's ports, in defiance of a blockade authorized by the law of retaliation, is unaffected by it. We complain that America does not resist the regulations of the Berlin and Milan decrees, and object to permitting the French to trade with her during their continuance against the commerce of England. But this is not exacting, as has been represented, that America should force British manufactures into France; it is pursuing only a just course of retaliation on our enemy. If America wishes to trade with France, if French commerce is of importance to her, we expect she should exact of France to trade with her, as she has a right to demand, in her quality of neutral; but if she does not exercise this right, all that we ask is, that she should abstain from lending her assistance to the trade of France, and not allow her commerce to be a medium of undermining the resources of Great Britain.

I have thought it necessary thus to endeavor to set these two points in their true light; the repeal of the law was asked, as being an unfriendly measure, partial in its operation against Great Britain; and a prospect of retaliation was held out on its commercial operation, if continued. This is no demand on the United States to admit British manufactures; they are at liberty to continue that law; only, as it is of an unfriendly nature, some restriction of a similar kind was to be expected from England; and, with respect to the alleged demand for forcing British goods, the property of neutrals, into French ports, if the United States are willing to acquiesce in the regulation of the French decrees, unlawfully affecting England through them, they cannot, surely, be surprised if we consider ourselves as at liberty to refuse permission to the French to profit by that acquiescence.

I will now, sir, take the opportunity of stating to you that I have received from His Majesty's Secretary of State the correspondence of which you did me the honor to transmit to me a copy in your letter dated October 17. My Government have not been able to see in it satisfactory proof of the repeal of the French decrees, and doubt whether the trade carried on by licenses between France and America will not be regarded, even here, as proof of the continuation of them in their fullest extent; for if they were to any extent repealed, to that extent, at least, no license should be necessary—a license being given to allow what, but for that license, would be prohibited.

The continued absence, hitherto, of any instrument by which the repeal has been effected, is a matter also of surprise; for if there were any fair dealing in the transaction, no reason can be given by France for not producing it; it is very desirable that it should be produced, if such an instrument be in existence, in order that we may know to what extent the decrees have been repealed, if they really have been so in any respect. Mr. Russell, however, does not appear to have been in possession of it at the date of his letter

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of last July. It is, indeed, become particularly interesting that we should see this instrument, since the publication of Mr. Russell's correspondence with his own Government, by which it appears that, really and in fact, the French Government did not release any American ships taken after November 1, until they had become acquainted with the President's proclamation; and that vessels have been taken so late as December 21, in the direct voyage from this country to London; for, until a copy of such instrument is produced, it is impossible to know whether any other trade is allowed by France than that between her own dominions and the ports of the United States. I have the honor to be, sir, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Jan. 14, 1812.

SIR: I have had the honor to receive your letter of December 17th, and I embrace the first moment that I could command to make the observations which it suggests.

It would have afforded great satisfaction to the President to have found in the communication some proof of a disposition in the British Government to put an end to the differences subsisting between our countries. I am sorry to be obliged to state that it presents a new proof only of its determination to adhere to the policy to which they are imputable.

You complain that the import of your former letters has been misunderstood in two important circumstances: that you have been represented to have demanded of the United States a law for the introduction of British goods into their ports, and that they should also undertake to force France to receive British manufactures into her harbors.

You state that on the first point it was your intention only to remonstrate against the non-importation act, as partial in its operation, and unfriendly to Great Britain, on which account its repeal was claimed; and to intimate that, if it was persevered in, Great Britain would be compelled to retaliate on the commerce of the United States, by similar restrictions on her part. And, on the second point, that you intended only to urge, that in consequence of the extraordinary blockade of England, your Government has been obliged to blockade France, and to prohibit all trade in French articles, in return for the prohibition by France of all trade in English articles.

It is sufficient to remark on the first point, that on whatever ground the repeal of the non-importation act is required, the United States are justified in adhering to it, by the refusal of the British Government to repeal its Orders in Council, and if a distinction is thus produced between Great Britain and the other belligerent, it must be referred to the difference in the conduct of the two parties.

On the second point, I have to observe that the explanation given cannot be satisfactory, because

it does not meet the case now existing. France did, it is true, declare a blockade of England against the trade of the United States, and prohibit all trade in English articles on the high seas; but this blockade and prohibition no longer exist. It is true also, that a part of those decrees did prohibit a trade in English articles, within her territorial jurisdiction; but this prohibition violates no national right or neutral commerce of the United States. Still your blockade and prohibition are continued, in violation of the national and neutral rights of the United States, on a pretext of retaliation, which, if ever applicable, could only be applied to the former, and not to the latter interdicts; and it is required that France shall change her internal regulations against English trade, before England will change her external regulations against the trade of the United States.

But you still insist that the French decrees are unrevoked, and urge, in proof of it, a fact drawn from Mr. Russell's correspondence that some American vessels have been taken since the first of November, in their route to England. It is a satisfactory answer to this remark, that it appears, by the same correspondence, that every American vessel, which had been taken in that trade, the seizure of which rested on the Berlin and Milan decrees only, were, as soon as that fact was ascertained, delivered up to their owners. Might there not be other ground also on which seizures might be made? Great Britain claims a right to seize for other causes, and all nations admit it in the case of contraband of war. If, by the law of nations, one belligerent has a right to seize neutral property in any case, the other belligerent has the same right. Nor ought I to overlook that the practice of counterfeiting American papers in England, which is well known to the Continent, has, by impairing the faith due to American documents, done to the United States essential injury. Against this practice the Minister of the United States at London, as will appear by a reference to his letter to the Marquis of Wellesley of the 3d of May, 1810, made a formal representation, in pursuance of instructions from his Government, with an offer of every information possessed by him which might contribute to detect and suppress it. It is painful to add that this communication was entirely disregarded. That Great Britain should complain of acts in France, to which, by her neglect, she was instrumental, and draw from them proof in support of her Orders in Council, ought certainly not to have been expected.

You remark, also, that the practice of the French Government to grant licenses to certain American vessels engaged in the trade between the United States and France, is an additional proof that the French decrees still operate in their fullest extent. On what principle this inference is drawn from that fact, it is impossible for me to conceive. It was not the object of the Berlin and Milan decrees to prohibit the trade between the United States and France. They meant to prohibit the trade of the United States with Great Britain, which violated our neutral

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rights, and to prohibit the trade of Great Britain with the Continent, with which the United States have nothing to do. If the object had been to prohibit the trade between the United States and France, Great Britain could never have found in them any pretext for complaint. And if the idea of retaliation could in any respect have been applicable, it would have been by prohibiting our trade with herself. To prohibit it with France would not have been a retaliation, but a co-operation. If licensing by France the trade in certain instances proves anything, it proves nothing more than that the trade with France in other instances, is under restraint. It seems impossible to extract from it, in any respect, that the Berlin and Milan decrees are in force, so far as they prohibit the trade between the United States and England. I might here repeat that the French practice of granting licenses to a trade between the United States and France may have been intended in part, at least, as a security against the simulated papers, the forging of which was not suppressed in England. It is not to be inferred from these remarks that a trade by license is one with which the United States are satisfied. They have the strongest objections to it; but these are founded on other principles than those suggested in your note.

It is a cause of great surprise to the President that your Government has not seen in the correspondence of Mr. Russell, which I had the honor to communicate to you on the 17th of October last, and which has been lately transmitted to you by your Government, sufficient proof of the repeal of the Berlin and Milan decrees. Independent of the conclusive evidence of the fact which that correspondence afforded, it was not to be presumed, from the intimation of the Marquis Wellesley, that it was to be transmitted to you, to be taken into consideration in the depending discussions, that it was of a nature to have no weight in those discussions.

The demand which you now make of a view of the order given by the French Government to its cruisers, in consequence of the repeal of the French decrees, is a new proof of its indisposition to repeal the Orders in Council. The declaration of the French Government was, as has been heretofore observed, a solemn and obligatory act, and, as such, entitled to the notice and respect of other Governments. It was incumbent on Great Britain, therefore, in fulfilment of her engagement, to have provided that her Orders in Council should not have effect after the time fixed for the cessation of the French decrees. A pretension in Great Britain to keep her Orders in force, till she received satisfaction of the practical compliance of France, is utterly incompatible with her pledge. A doubt founded on any single act, however unauthorized, committed by a French privateer, might, on that principle, become a motive for delay and refusal. A suspicion that such acts would be committed might have the same effect; and, in like manner, her compliance might be withheld as long as the war continued. But let me here remark, that if there was room

for a question, whether the French repeal did or did not take effect at the date announced by France, and required by the United States, it cannot be alleged that the decrees have not ceased to operate since the 2d of February last, as heretofore observed. And as the actual cessation of the decree to violate our neutral rights was the only essential fact in the case, and has long been known to your Government, the Orders in Council from the date of that knowledge ought to have ceased, according to its own principles and pledges.

But the question whether, and when, the repeal of the Berlin and Milan decrees took effect, in relation to the neutral commerce of the United States, is superseded by the novel and extraordinary claim of Great Britain to a trade in British articles with her enemy; for, supposing the repeal to have taken place, in the fullest extent claimed by the United States, it could, according to that claim, have no effect in removing the Orders in Council.

On a full view of the conduct of the British Government in these transactions, it is impossible to see in it anything short of a spirit of determined hostility to the rights and interests of the United States. It issued the Orders in Council, on a principle of retaliation on France, at a time when it admitted the French decrees to be ineffectual; it has sustained those Orders in full force since, notwithstanding the pretext for them has been removed, and latterly it has added a new condition of their repeal, to be performed by France, to which the United States in their neutral character have no claim, and could not demand without departing from their neutrality; a condition which, in respect to the commerce of other nations with Great Britain, is repugnant to her own policy, and prohibited by her own laws, and which can never be enforced on any nation without a subversion of its sovereignty and independence.

I have the honor to be, &c.,

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, December 28, 1811.

SIR: I have been informed by Mr. Morier that, so long ago as the 1st of last January, in consequence of a written communication from Sir James Craig, His Majesty's Governor General and Commander-in-Chief in Canada, dated the 25th November, 1810, acquainting him with his suspicions of its being the intention of some of the Indian tribes, from the great fermentation among them, to make an attack on the United States, and authorizing him to impart his suspicions to the American Secretary of State, he had actually done so verbally to Mr. Smith, your predecessor in office, and on searching among the archives of this mission, I have found the letter alluded to of Sir James Craig, by which he did authorize Mr. Morier to make the communication in question, as well as a memorandum of its having so been made; as also an express declaration of Sir James Craig, that, although he doubted

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there would not be wanting persons who would be ready to attribute the movements of the Indians to the influence of the British Government, yet, that his department were actually making every exertion in their power to assist in preventing their attempts.

This evidence, sir, of a friendly disposition to put the United States' Government on their guard against the machinations of the savages, and even to aid in preventing the calamity which has taken place, is so honorable to the Governor General of Canada, and so clearly in contradiction to the late unfounded reports which have been spread of a contrary nature, that I cannot resist the impulse I have to draw your attention towards it; not that I conceive, however, that it was necessary to produce this proof to the United States' Government of the falsity of such reports, which the character of the British nation, and the manifest inutility of urging the Indians to their destruction, should have rendered improbable, but in order that you may be enabled, in case it shall seem fitting to you, by giving publicity to this letter, to correct the mistaken notions on the subject, which have unfortunately found their way even among persons of the highest respectability, only, as I am convinced, from their having been misinformed. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

To the Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Jan. 9, 1812.

SIR: I have had the honor to receive your letter of the 28th ult., disavowing any agency of your Government in the late hostile measures of the Indian tribes towards the United States. If the Indians derived encouragement from any persons in those measures of hostility, it is very satisfactory to the President to receive from you an assurance that no authority or countenance was given to them by the British Government.

I have the honor to be, &c.

JAMES MONROE.

His Exc'y A. J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, April 15, 1812.

SIR: I have the honor to acquaint you that, in addition to those seamen belonging to His Majesty's hired armed ketch *Gleaner*, mentioned in my representation to you of the 30th ult., who lately received protection in the violation of their engagements, or were seduced from the service of His Majesty by citizens of the United States, I have since been informed by Lieutenant Green, her commander, of another subject of His Majesty, who was also induced to leave His Majesty's service in consequence of encouragement to that effect from the inhabitants of Annapolis.

Such instances, sir, of improper attempts made on the part of citizens of the United States to deprive His Majesty's ships, even when employed in the diplomatic intercourse between the two

countries, of their seamen, will serve, in conjunction with many others in my power to quote, and perhaps in your remembrance, to show, that if the United States have reason at times to complain of irregularity in His Majesty's officers in undesignedly taking their seamen, mistaking them for their own, we have occasionally also reason to make complaint of our seamen engaged on national service, and known as British subjects, being seduced from their allegiance by citizens of the United States, with circumstances of aggravation and insult highly irritating.

Although, sir, it has unfortunately not as yet been found practicable by our Government to agree to such arrangements as might preclude the possibility of events taking place so calculated to produce vexation on either side, I cannot, however, but hope that the Government of the United States may find some means to prevent a recurrence of similar irregularities on the part of their citizens; and I assure you, sir, that as hitherto, so at all times whenever you claim any persons on board any of His Majesty's ships as native American citizens, no exertion shall be wanting on my part to procure their discharge; and I will add, that it would afford me very high satisfaction to be now furnished by you with a list of all those whom you can claim as such, in order that I might use every effort in my power to obtain their immediate release.

You need not, I am sure, sir, be reminded by me of the prompt attention which has invariably been given by His Majesty's commanding officer on the Halifax station to the reclamations in similar cases which I have transmitted since my arrival in the United States to him in your name, nor of the readiness with which he has given directions, when practicable, for their being instantaneously discharged. I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, May 30, 1812.

SIR: Having had the honor to confer with you soon after the date of your letter of April 15, relative to a deserter from His Majesty's ship of war the *Gleaner*, it is unnecessary to repeat here the remarks which I then made on that subject. I shall only observe, that none of the men who deserted from that vessel had any encouragement to do it from the constituted authorities of the United States, or of the State of Maryland. If they received such encouragement from any of our citizens, it is a cause of regret; but it is an act not cognizable by our laws any more than it is presumed to be by those of Great Britain.

It is proper to state, that a similar desertion took place last year from an American frigate in an English port, in which no redress was afforded. It was the more remarkable, as the deserter took refuge on board a British ship of war, the commander of which refused to surrender him on being requested to do so.

Your proffered exertions to procure the dis-

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charge of native American citizens from on board British ships of war, of which you desire a list, has not escaped attention.

It is impossible for the United States to discriminate between their native and naturalized citizens, nor ought your Government to expect it, as it makes no such discrimination itself. There is in this office a list of several thousand American seamen, who have been impressed into the British service, for whose release applications have, from time to time, been already made; of this list a copy shall be forwarded you, to take advantage of any good offices you may be able to render. I have the honor to be, &c.

JAMES MONROE.

His Exc'y A. J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, May 30, 1812.

SIR: Notwithstanding the discouraging nature of the conversation which I had the honor to have with you a few days since at your office, and the circumstance of your continued silence in regard to two letters from me furnishing additional proof of the existence of the French decrees; nevertheless, there does now appear such clear and convincing evidence in the report of the Duke of Bassano, dated the 10th of March, of the present year, of those decrees having not only never been rescinded, but of their being recently extended and aggravated in the republication of them contained in that instrument, that I cannot but imagine it will seem most important to the President, that it should be communicated to Congress without delay in the present interesting crisis of their deliberations; and, therefore, hasten to fulfil the instructions of my Government, in laying before the Government of the United States the enclosed *Moniteur* of the 16th of last March, in which is contained that report as it was made to the Ruler of France, and communicated to the Conservative Senate.

This report confirms, if anything were wanting to confirm, in the most unequivocal manner, the repeated assertions of Great Britain, that the Berlin and Milan decrees have never been revoked, however some partial and insidious relaxations of them may have been made in a few instances, as an encouragement to America to adopt a system beneficial to France, and injurious to Great Britain, while the conditions on which alone it has been declared that those decrees will ever be revoked are here explained and amplified in a manner to leave us no hope of Bonaparte having any disposition to renounce the system of injustice which he has pursued, so as to make it possible for Great Britain to give up the defensive measures she has been obliged to resort to.

I need not remind you, sir, how often it has in vain been urged by Great Britain, that a copy of the instrument should be produced, by which the decrees of Bonaparte were said to be repealed, and how much it has been desired that America should explicitly state that she did not adopt the conditions on which the repeal was offered.

It is now manifest that there was never more than a conditional offer of repeal made by France, which we had a right to complain that America should have asked us to recognise as *absolute*, and which, if accepted in its extent by America, would only have formed fresh matter of complaint, and a new ground for declining her demands.

America must feel that it is impossible for Great Britain to rescind her Orders in Council whilst the French decrees are officially declared to remain in force against all nations not subscribing to the new maritime code promulgated in those decrees, and also without something more explicit on the part of America with regard to her understanding as to the conditions annexed by France to the repeal of those decrees. For, after what has passed, unless a full and satisfactory explanation be made on both these points, Great Britain cannot relinquish her retaliatory system against France, without implying her consent to the admissibility of the conditions in question.

These observations will, I am sure, appear sufficiently obvious to you, sir, on perusing the enclosed paper.

It will be at once acknowledged that this paper is a republication of the Berlin and Milan decrees in a more aggravated form, accompanied as it is with an extension of all the obnoxious doctrines which attend those decrees, inflamed by a declaration that Bonaparte had annexed to France every independent State in the neighborhood which had eluded them; and that he was proceeding against all other maritime parts of Europe, on the pretence that his system could not be permanent and complete so long as they retained their liberty with regard to it.

The outrageous principle here avowed connects itself obviously with the proposition too much countenanced by America, that the continental system of Bonaparte, as far as it operates to the confiscation of neutrals' property on shore, on the ground of such property being British produce or manufacture, is a mere municipal regulation, which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations. It is unnecessary to recur to the various arguments by which it has been shown that this system does not partake of the character of municipal regulation which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations, but that it is a mere war measure, directed with the most hostile spirit against Great Britain; and in order to extend this system on the principle of municipal regulation, all the rights of independent neutral nations are to be violated, their territories to be seized without any other cause of war whatever but that they may be incorporated with the French nation, and thence, becoming subject to her rights of dominion, receive the continental system as a municipal regulation of France, and thus the mere possibility of non-compliance with the whole of the system is made the ground for the occupation or invasion, the incorporation or extinction, of every State where the French arms can reach.

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Great Britain cannot believe that America will not feel a just indignation at the full development of such a system—a system which, indeed, Bonaparte has partially opened before, and has, in the instances of the Hanseatic towns, of Portugal, and other countries, carried into complete execution, but which he has never completely unfolded in all its extent until the present moment. And in what an insulting and preposterous shape does he now attempt to bring forward and promulgate this code which he is to force upon all nations? He assumes the Treaty of Utrecht to be in force, and to be a law binding upon all nations; because it suits his convenience at this moment when the navy of France is driven from the ocean, to revive the doctrine of “free ships making free goods.” He has recourse to a treaty no longer in force, in which such a stipulation existed—a treaty which, by his own express refusal at Amiens to renew any of the ancient treaties, was not then revived even as binding on Great Britain and France, between whom alone, as parties to it, and only while they were at peace with each other, could it ever have had any legal effect; yet even this treaty is too narrow a basis for his present pretensions, since he cannot find in it his rule for limiting maritime blockades to fortresses actually invested, besieged, and likely to be taken; no provision of any description having been made in that treaty, either for defining or regulating blockades.

Surely, at such an instant, America will not urge Great Britain to abandon or to soften any precautionary, any retaliatory rights against such a Power. The British Government not only feels itself imperiously bound to defend them, as they respect Great Britain, with all vigor, but to call upon every nation to resist such exorbitant pretensions.

If Great Britain at such a moment were to relax her Orders in Council against France, would not all other nations have reason to complain that the common cause was abandoned?

America must feel that Bonaparte is not acting, as indeed he never has acted, with any view of establishing principles of real freedom with respect to navigation; but is merely endeavoring to cloak his determination, if possible, to ruin Great Britain by novel demands and rejected theories of maritime law; and America must see that Bonaparte's object is to exclude British commerce from every coast and port of the Continent; and that, in pursuit of this object, trampling on the rights of independent States, he insultingly proclaims his determination to effect it by direct invasion of those independent States, which he as insultingly terms a guaranty, thus making the most solemn and sacred term in the law of nations synonymous with usurpation of territory and extinction of independence. America must see that, as all the States hitherto in his power have been seized on to guaranty his system, he is now proceeding to destroy whatever remains of independence in other neutral States to make that guaranty complete. From his want of power to pass the Atlantic with his armies, (a want of

power for which the United States are indebted to the naval superiority of Great Britain,) his system of a guarantying force may fail as to America; but, as he cannot hope to shut American ports against Great Britain by occupancy and invasion, he hopes to effect his purpose by management and fraud, and to accomplish that by insidious relaxation which he cannot accomplish by power.

Great Britain, he feels, is only to be ruined by excluding her from every port in the world; he hopes, therefore, to shut every port in Europe by force, and every port in America by management; he pretends to conciliate America by applause of her conduct, and a partial relaxation of his system in her favor. He accompanies the promise of repealing his decrees with conditions which he trusts America will not disavow, and which he knows Great Britain must reject; knowing, at the same time, that the relaxation of his decrees will be of little use to America without a corresponding relaxation by Great Britain, he throws every obstacle against concession to America by Great Britain, making her perseverance in her retaliatory system more than ever essential to her honor and existence. And, surely, it will not escape the notice, or fail to excite the indignation of the American Government, that the ruler of France, by taking the new ground now assumed, has retracted the concession which America supposed him to have made. He has inconsistently and contemptuously withdrawn from her the ground upon which she has taken a hostile attitude against Great Britain, since the repeal of our Orders in Council; and even the renunciation of our rights of blockade would no longer suffice to obtain a repeal of the Berlin and Milan decrees.

His Majesty's Government cannot but hope that America, considering all the extravagant pretensions set forth by the Ruler of France in the Duke of Bassano's report, and at the same time the resolution to march his armies into all States into the ports of which the English flag is admitted, will acknowledge that this doctrine and resolution constitute a complete annihilation of neutrality, and that she is bound, as a neutral State, to disavow and resist them. Every State that acquiesces in this report must act upon the principle that neutral and enemy are to be considered henceforward as the same in the language of the French law of nations; and Great Britain has a right to consider that every nation who refuses to admit her flag upon the principle assumed, admits and recognises the doctrine of the report.

I will not now trouble you, sir, with many observations relative to the blockade of May, 1806, as the legality of that blockade, assuming the blockading force to have been sufficient to enforce it, has latterly not been questioned by you.

I will merely remark, that it was impossible Great Britain should receive otherwise than with the utmost jealousy the unexpected demand made by America for the repeal of the blockade as well as of the Orders in Council, when it appeared to be made subsequent to, if not in consequence of, one of the conditions in Bonaparte's pretended repeal

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of his decrees, which condition was our renouncing what he calls "our new principles of blockade;" that the demand on the part of America was additional and new, is sufficiently proved by a reference to the overture of Mr. Pinkney, as well as from the terms on which Mr. Erskine had arranged the dispute with America relative to the Orders in Council. In that arrangement nothing was brought forward with regard to this blockade. America would have been contented, at that time, without any reference to it. It certainly is not more a grievance or an injustice now than it was then. Why, then, is the renunciation of that blockade insisted upon now, if it was not necessary to insist upon it then? It is difficult to find any answer but by reference to subsequent communications between France and America, and a disposition in America to countenance France in requiring the disavowal of this blockade, and the principles upon which it rested, as the *conditio sine qua non* of the repeal of the Berlin and Milan decrees. It seems to have become an object with America, only because it was prescribed as a condition by France.

On this blockade, and the principles and rights upon which it was founded, Bonaparte appears to rest the justification of all his measures for abolishing neutrality, and for the invasion of every State which is not ready with him to wage a war of extermination against the commerce of Great Britain.

America, therefore, no doubt saw the necessity of demanding its renunciation; but she will now see that it is in reality vain either for America or Great Britain to expect an actual repeal of the French decrees until Great Britain renounces, first, the basis, viz: the blockade of 1806, on which Bonaparte has been pleased to found them; next, the right of retaliation, as subsequently acted upon in the Orders in Council; further, till she is ready to receive the Treaty of Utrecht, interpreted and applied by the Duke of Bassano's report, as the universal law of nations; and, finally, till she abjures all the principles of maritime law which support her established rights, now more than ever essential to her existence as a nation.

Great Britain feels confident that America never can maintain or ultimately sanction such pretensions, and His Royal Highness the Prince Regent entertains the strongest hope that this last proceeding of France will strip her measures of every remnant of disguise, and that America, in justice to what she owes to the law of nations and to her own honor as a neutral State, will instantly withdraw her countenance from the outrageous system of the French Government, and cease to support, by hostile measures against British commerce, the enormous fabric of usurpation and tyranny which France has endeavored to exhibit to the world as the law of nations.

America cannot now contend that the Orders in Council exceed, in spirit of retaliation, what is demanded by the decrees, the principles, or the usurpations of Bonaparte. The United States' Government must at last be convinced that the partial relaxations of those decrees in favor of

America have been insidiously adopted by France for the mere purpose of inducing her to close her ports against Great Britain, which France cannot effect herself by force; and she must admit that, if Great Britain were now to repeal her Orders in Council against France, it would be gratuitously allowing to France the commerce of America, and all the benefits derivable from her flag, as an additional instrument for the annoyance of Great Britain, and that at a moment when every State is threatened with destruction, or really destroyed, for merely supporting their own rights to trade with Great Britain.

I am commanded, sir, to express, on the part of His Royal Highness the Prince Regent, that, while His Royal Highness entertains the most sincere desire to conciliate America, yet he can never concede that the blockade of May, 1805, could justly be made the foundation, as it avowedly has been, for the decrees of Bonaparte: and, further, that the British Government must ever consider the principles on which that blockade rested, (accompanied as it was by an adequate blockading force,) to have been strictly consonant to the established law of nations, and a legitimate instance of the practice which it recognises.

Secondly, that Great Britain must continue to reject the other spurious doctrines promulgated by France in the Duke of Bassano's report, as binding upon all nations. She cannot admit, as a true declaration of public law, that free ships make free goods; nor the converse of that proposition, that enemy's ships destroy the character of neutral property in the cargo. She cannot consent, by the adoption of such a principle, to deliver absolutely the commerce of France from the pressure of the naval power of Great Britain, and, by the abuse of the neutral of the flag, to allow her enemy to obtain, without the expense of sustaining a navy for the trade and property of French subjects, a degree of freedom and security which even the commerce of her own subjects cannot find under the protection of the British navy.

She cannot admit, as a principle of public law, that a maritime blockade can alone be legally applied to fortresses, actually invested by land as well as by sea, which is the plain meaning or consequence of the Duke of Bassano's definition.

She cannot admit, as a principle of public law, that arms and military stores are alone contraband of war, and that ship timber and naval stores, are excluded from that description. Neither can she admit, without retaliation, that the mere fact of commercial intercourse with British ports and subjects should be made a crime in all nations, and that the armies and decrees of France should be directed to enforce a principle so new and unheard of in war.

Great Britain feels that to relinquish her just measures of self-defence and retaliation would be to surrender the best means of her own preservation and rights, and with them the rights of other nations, so long as France maintains and acts upon such principles.

I am commanded to represent to the Government of America, that Great Britain feels herself

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entitled to expect from them an unreserved and candid disclaimer of the right of France to impose on her and on the world the maritime code which has been thus promulgated, and to the penalties of which America is herself declared to be liable if she fails to submit herself to its exactions. America cannot, for her own character, any longer temporize on this subject, or delay coming to a distinct explanation with France as well as with Great Britain, if she wishes to clear herself from the imputation of being an abettor of such injustice.

America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her Orders in Council. She must recollect that the British Government can never for a moment countenance the idea that the repeal of these orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed was, her readiness to rescind her Orders in Council as soon as France rescinded absolutely and unconditionally her decrees. She could not enter into any other engagement without the grossest injustice to her allies as well as the neutral nations in general; much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British Empire.

America has now a proceeding forced upon her by France, on which, without surrendering any of those principles which she may deem it necessary for her own honor and security to maintain, she may separate herself from the violence and injustice of the enemy. She owes it not only to herself to do so, but she is entitled to resent that course of conduct on the part of France which is the only impediment to her obtaining what she desires at the hands of Great Britain, namely, the repeal of the Orders in Council.

I am authorized to renew to the American Government the assurance of His Royal Highness's anxious desire to meet the wishes of America upon this point, whenever the conduct of the enemy will justify him in so doing.

While America could persuade herself, however erroneously, that the Berlin and Milan decrees had been actually and totally repealed, and that the execution of the engagement made on that condition by the British Government had been declined, she might deem it justifiable, as a consequence of such a persuasion, to treat the interest and commerce of France with preference and friendship, and those of Great Britain with hostility. But this delusion is at an end; America now finds the French decrees not only in full force, but pointed with augmented hostility against Great Britain. Will the Government of the United States declare that the measure now taken by France is that repeal of the obnoxious decrees which America expected would lead to the repeal of the British Orders in Council? Will the American Government, unless upon the principle of denying our retaliatory right of blockade under any imaginable circumstances, declare that there is at this moment a ground upon which the

repeal of our Orders in Council can be pressed upon us; or that the repeal could now be warranted upon any other ground than an express abdication of the right itself, which America well knows, whatever may be our desire to conciliate, is a concession which the British Government cannot and will not make.

If this be true, for what purpose can she persevere in her hostile attitude towards Great Britain, and her friendly one towards France? Do the American Government really wish to aid France in her attempt to subjugate Great Britain. Does America expect that Great Britain, contending against France, will, at the instance of America, disarm herself, and submit to the mercy of the opponent? If both these questions are answered in the negative, upon what ground can she, for a moment, longer continue the hostile measures against us? The American non-intercourse act was framed upon the express principle of continuing in force against the Power, whether France or Great Britain, that should refuse to repeal its respective laws, of which America thought herself entitled to complain; but the repeal contemplated by that act was a *bona fide* repeal, and not a repeal upon an inadmissible condition; and America can never be justified in continuing to resent against us that failure of relief which is alone attributable to the insidious policy of the enemy, that has for the purpose of embarrassing the discussion interwoven the question of the decrees with the exaction of a relinquishment of almost the whole system of our maritime law.

It is not for the British Government to dictate to that of America what ought to be the measure of just indignation against the Ruler of France for having originated and persevered in a system of lawless violence, to the subversion of neutral rights, which, being necessarily retaliated by Great Britain, has exposed America, with other neutral States, to losses which the British Government has never ceased most sincerely to deplore. America must judge for herself how much the original injustice of France towards her has been aggravated by the fraudulent professions of relinquishing her decrees by the steps adopted to mislead America, in order to embark her in measures which, we trust, she never would have taken, if she could have foreseen what has now happened; and, ultimately, by threatening America with her vengeance, as a denationalized State, if she does not submit to be the instrument of her designs against Great Britain.

These are considerations for America to weigh; but what we are entitled to claim at her hands, as an act not less of policy than justice, is, that she should cease to treat Great Britain as an enemy. The Prince Regent does not desire retrospect when the interests of two countries so naturally connected by innumerable ties are concerned. It is more consonant to His Royal Highness's sentiments to contribute to the restoration of harmony and friendly intercourse than to inquire why it has been interrupted. Feeling that nothing has been omitted on his part to relieve America from the inconveniences to which a

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novel system of warfare on the part of France unfortunately continues to expose her, and that the present unfriendly relations which, to their mutual prejudice, subsist between the two countries, have grown out of a misconception, on the part of America, both of the conduct and purpose of France, His Royal Highness considers himself entitled to call upon America to resume her relations of amity with Great Britain. In doing so, she will best provide for the interests of her own people; and I am authorized to assure the American Government, that, although His Royal Highness, acting in the name and on the behalf of His Majesty, can never suffer the fundamental maxims of the British monarchy, in matters of maritime right, as consonant to the recognised law of nations, to be prejudiced in his hands, His Royal Highness will be ready, at all times, to concert with America as to their exercise, and so to regulate their application, as to combine, as far as may be, the interests of America, with the object of effectually retaliating upon France the measure of her own injustice.

I will now terminate this letter by assuring you, sir, as I can with perfect truth, that the most cordial and sincere desire animates the councils of Great Britain to conciliate America as far as may be consistent with the principles upon which the preservation of the power and independence of the British monarchy is held essentially to depend, and which cannot be abandoned without throwing her helpless and disarmed into the presence of her adversary.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

JAMES MONROE, Esq.,

Secretary of State.

[Referred to in Mr. Foster's letter of 30th May.]

Report of the Minister of Foreign Relations to His Majesty the Emperor and King, communicated to the Conservative Senate in the sitting of the 10th March, 1812.

SIRE: The maritime rights of neutrals have been solemnly regulated by the Treaty of Utrecht, which has become the common law of nations.

This law, expressly renewed in all the subsequent treaties, has consecrated the principles I am about to expose.

The flag covers the property; enemy's property under a neutral flag is neutral, as neutral property under an enemy's flag is enemy's property. The only articles which the flag does not cover are contraband articles; and the only articles which are contraband are arms and munitions of war.

A visit of a neutral vessel by an armed vessel can only be made by a small number of men, the armed vessel keeping beyond the reach of cannon shot.

Every neutral vessel may trade from an enemy's port to an enemy's port, and from an enemy's port to a neutral port. The only ports excepted are those really blockaded; and the ports really blockaded are those which are invested, besieged, and in danger of being taken, (*en pre-*

vention d'être pris.) and into which a merchant ship could not enter without danger.

Such are the obligations of belligerent nations towards neutral nations; such are the reciprocal rights of both; such are the maxims consecrated by the treaties which form the public law of nations. Often has England attempted to substitute for them arbitrary and tyrannical rules. Her unjust pretensions were repelled by all Governments sensible to the voice of honor and to the interests of their people. She saw herself constantly obliged to recognise in her treaties the principles which she wished to destroy, and, when the Peace of Amiens was violated, maritime legislation rested again on its ancient foundation.

By the course of events, the English navy became more numerous than all the forces of the other maritime Powers. England then supposed that she had nothing to fear; she might attempt everything; she immediately resolved to subject the navigation of every sea to the same laws which governed that of the Thames.

It was in 1806 that she commenced the execution of this system, which tended to make the common law of nations yield to the Orders in Council and to the regulations of the Admiralty of London.

The declaration of the 16th of May annihilated, by a single word, the rights of all maritime States, and put under interdiction vast coasts and whole empires. From this moment England no longer recognised neutrals on the seas.

The orders of 1807 imposed on all vessels an obligation to enter English ports, whatever might be their destination, to pay a tribute to England, and to subject their cargoes to the tariff of her custom-houses.

By the declaration of 1806 all navigation was interdicted to neutrals; by the orders of 1807 the faculty of navigating was restored to them; but they could only use it for the advantage of English commerce, by the combinations of her interest, and to her profit.

The English Government took off thereby the mask with which it had concealed its projects, proclaimed the universal dominion of the seas, regarded every people as their tributaries, and imposed upon the Continent the expenses of the war which it maintained against it.

These unheard-of measures excited a general indignation among those Powers who cherished the sentiment of their independence and of their rights. But at London they carried to the highest degree of elevation the national pride; they displayed to the English people a futurity rich with the most brilliant hopes. Their commerce, their industry, were to be henceforward without competition; the productions of the two worlds were to flow into their ports, do homage to the maritime and commercial sovereignty of England, in paying to her a toll duty; and afterwards proceed to other nations burdened with enormous costs, from which English merchandise alone would have been exonerated.

Your Majesty perceived, at a single glance, the

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evils with which the Continent was threatened. The remedy was immediately resorted to ; you annihilated by your decrees this arrogant and unjust enterprise, so destructive to the independence of all States, and of the rights of every people.

The decree of Berlin replied to the declaration of 1806. The blockade of the British isles was opposed to the imaginary blockade established by England.

The decree of Milan replied to the orders of 1807 ; it declared *denationalized* every neutral vessel which submitted to English legislation, known to have touched at an English port, known to have paid a tribute to England, and which thereby renounced the independence and the rights of its flag. All the merchandise of the commerce and of the industry of England were blockaded in the British isles ; the Continental system excluded them from the Continent.

Never did an act of reprisal attain its object in a manner more prompt, more certain, or more victorious. The decrees of Berlin and Milan turned against England the weapons which she had directed against universal commerce. The source of commercial prosperity, which England thought so abundant, became a source of calamity for English commerce ; in the place of those exactions which were to have enriched her funds, a depreciation, continually increasing, impairs the wealth of the State and that of individuals.

When the decrees of your Majesty appeared, the whole Continent foresaw that such would be the result, if they received their entire execution ; but as much as Europe was accustomed to see your undertakings crowned with success, they were at a loss to conceive by what new prodigies your Majesty would realize the great designs which have been so rapidly accomplished. But armed with all your power, nothing could turn your Majesty from your object. Holland, the Hanseatic cities, the coast which lies between the Zuyder Zee and the Baltic, were to be united to France, subject to the same administration and the same regulations—the immediate and inevitable consequence of the legislation of the English Government. Considerations of no kind were able to balance in the mind of your Majesty the first interests of your Empire.

I will not stop to recapitulate the advantages of this important resolution. After fifteen months, that is to say, after the *senatus consultum* of reunion, the decrees of your Majesty press with all their weight upon England. She flattered herself to invade the commerce of the world, and her own commerce became a mere stock-jobbing affair, (*agiotage*), which could not be carried on but by means of twenty thousand licenses issued every year. Forced to obey the law of necessity, she thereby renounced her navigation act, the original foundation of her power. She aspired to the universal dominion of the seas, and navigation is interdicted to her vessels ; repulsed from all the ports of the Continent, she wished to enrich her funds with the tributes that Europe was to pay ; and Europe has withdrawn itself not only from her injurious pretensions, but likewise from

the tributes which it paid to her industry ; her manufacturing cities have become deserted ; distress has succeeded to a prosperity, until then increasing ; the alarming disappearance of specie, the absolute privation of business, daily interrupt the public tranquillity. Such for England are the results of her imprudent attempts ; she thence learns, and she will every day learn more fully, that there is no safety for her but in a return to justice and to the principles of the law of nations, and that she will not be able to participate in the benefits of the neutrality of ports, unless she will suffer neutrals to profit of the neutrality of their flag. But until then, and so long as the British Orders in Council are not revoked, and the principles of the Treaty of Utrecht in relation to neutrals put in force, the decrees of Berlin and Milan ought to subsist for the Powers who suffer their flag to be denationalized. The ports of the Continent ought to be opened neither to denationalized flags nor to English merchandise.

It cannot be concealed, that to maintain, beyond the reach of attack, this great system, it is necessary that your Majesty should employ the powerful means which belong to your Empire, and find in your subjects that assistance which you never have asked in vain. All the disposable forces of France must be directed whithersoever the English flag and flags denationalized, or conveyed by English vessels of war, may wish to enter. A particular army, exclusively charged with guarding our vast coasts, our maritime arsenals, and the triple row of fortresses which cover our frontiers, ought to answer to your Majesty for the security of the territories confided to its valor and its fidelity ; it will restore to their high destiny those brave men, accustomed to fight and to conquer under the eyes of your Majesty for the defence of political rights and the exterior security of the Empire. Even the depots of corps will no longer be diverted from the useful destination of keeping up the numbers and the strength of your active armies. The forces of your Majesty will be thus constantly maintained on the most formidable footing ; and the French Territory, protected by a permanent establishment, which is recommended by the interest, the policy, and dignity of the Empire, will find itself in a situation which will make it more deserving of the title of inviolable and sacred.

It is a long time since the actual Government of Great Britain proclaimed perpetual war ; a frightful project, which the most unbridled ambition would not have dared to form, and which a presumptuous boasting could only have avowed ; a frightful project, which might, however, be realized, if France could hope for nothing but engagements, without guaranty, of an uncertain length, and even more disastrous than war.

Peace, sire, which your Majesty, in the midst of your great power, has so often offered to your enemies, will crown your glorious labors, if England, excluded with perseverance from the Continent, and separated from all the States whose independence she has violated, consents, at length, to enter upon the principles which form the ba-

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sis of European society, to acknowledge the laws of nations, and the rights consecrated by the Treaty of Utrecht.

In the mean time, the French people must remain in arms. Honor commands it; the interests, the rights, the independence of the nations engaged in the same cause, and an oracle still more certain, which has often been pronounced by your Majesty, makes it an imperious and sacred law.

Mr. Foster to the Secretary of State.

WASHINGTON, June 1, 1812.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th ultimo, in reply to my note of April 15, relating to a seaman who had been encouraged to desert from His Majesty's schooner *Gleaner*, by certain of the inhabitants of the city of Annapolis, and containing an offer, which I shall always be very happy to repeat, of using my best exertions to procure the discharge of such seamen as have been impressed on board His Majesty's ships, and can be legally claimed by the Government of the United States.

The circumstances which attended the instance mentioned in my former letter of April 5th, when several seamen of the same vessel (the *Gleaner*) were, under the very eyes of their officer, and in a manner exceedingly insulting to his feelings, assailed by the endeavors of the same people, to engage them to desert, and not adverted to in your letter; but, I suppose I am to conclude, from the tenor of it, that no remedy can be applied in such cases by the constituted authorities of the country, which is very much to be regretted, as it leaves the commanders of ships of war, who may have despatches to convey on shore in American ports, continually exposed to have their boats' crews seduced from them with impunity, and tends to show more than ever the disagreeable necessity under which they are of endeavoring to recover them from on board of the merchant ships in which such seamen afterwards engage themselves.

I do not pretend, sir, to justify the captain of the British ship of war who refused to deliver the American deserter mentioned in your letter, not knowing the circumstances under which he acted.

It will, no doubt, however, occur to you that, if you could state a single instance where crowds have collected round an American officer, on his landing in England, with a view to insult him and entice his men to abandon him, as is too often the practice in the United States, such an instance would be more directly in point.

I have now, sir, the honor to lay before you, by order of His Royal Highness, the Prince Regent, the enclosed papers, (Nos. 1, 2, 3, 4, 5,) relating to English seamen who have been detained against their will on board of certain ships of war of the United States, which have of late visited Great Britain, and to express His Royal Highness's sincere belief that these sources of complaint have originated without the concurrence

or participation of a State with which he is so anxious to preserve an amicable intercourse, as well as his conviction that the Government of America has only to be informed of the fact, to take prompt and satisfactory measures for the correction of the practice.

The American Government will perceive, from this friendly communication, that it is not on this side of the water alone that the inconvenience necessarily resulted from the similarity of habits, language, and manners, between the inhabitants of the two countries, is productive of subjects of complaint and regret. These are, however, at the same time, natural and strong inducements for a conformity of interest, and most particularly for a readiness to give and receive mutual explanations upon all subjects of difference.

I have it in charge to repeat to you, sir, for the information of your Government, that the Government of His Royal Highness the Prince Regent will continue to give the most positive orders against the detention of American citizens on board His Majesty's ships, and that no difficulties, beyond what are requisite for clearly ascertaining the national character of individuals whose cases are brought before the Lords Commissioners of the Admiralty, will be interposed to prevent or delay their immediate discharge.

The Earl of Liverpool, while he held the office of His Majesty's Secretary of State for Foreign Affairs, *ad interim*, was commanded to make known the case of William Bowman, stated, by the affidavit of his wife, to be forcibly detained on board the United States' ship the *Hornet*. The departure of this vessel precluded Mr. Russell from making the necessary representation to the commanding officer of the *Hornet*. As, however, Mr. Russell will have probably stated the circumstances of the case to this Government, I am in hopes there will be no difficulty in obtaining his release.

Of the papers enclosed, those marked No. 1 consist of a copy of a letter from Admiral Sir Roger Curtis, Commander-in-Chief at Portsmouth, to Mr. Croker, the Secretary to the Admiralty, enclosing a copy of the deposition, upon oath, of Charles Davis, an Irishman by birth, who was lately serving on board the United States' frigate *Constitution*, under the name of Thomas Holland; and of a letter from Captain Hall, of His Majesty's ship *Royal William*, to Admiral Sir Roger Curtis, giving an account of the same Charles Davis, and his escape from the *Constitution* frigate.

No. 2 contains the copy of a letter from Captain Hall to Sir Roger Curtis, transmitting a statement of the names and descriptions of twenty-eight British seamen on board the *Constitution* and the *Wasp*.

No. 3 contains a copy of a letter from Sir Roger Curtis to Mr. Croker, stating the real name and birthplace of William Smith, who ran away from the United States' frigate *Constitution*, and who proves to be a native of England, and whose name is John Taylor.

No. 4 contains the copy of another letter from

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Sir Roger Curtis to Mr. Croker, transmitting the affidavits of George Warren and Daniel Murphy, British seamen, who ran away from the Constitution and the Hornet, and of the wife of William Bowman, who is alluded to above.

And No. 5 contains the deposition, upon oath, of John Taylor, mentioned in No. 3.

The correspondence between the Earl of Liverpool and Mr. Russell, on the subject of Bowman, I do not enclose, concluding that Mr. Russell will have already transmitted copies of it to his Government. You will, however, find in No. 4 the statement of the circumstances attending Bowman's forcible detention.

I have the honor to be, &c.

A. J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *June 3, 1812.*

SIR: In the letter of May 30th, which I had the honor to receive from you on the 1st instant, I perceive a difference, in a particular passage of it, from a passage of the same subject, in the despatch from Lord Castlereagh to you, which you were so good as to communicate to me entire, as appears from the tenor of the letter to have been intended by your Government. The passage in your letter to which I allude is as follows "America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her Orders in Council. She must recollect that the British Government never for a moment countenanced the idea that the repeal of those orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed was, her readiness to rescind her Orders in Council as soon as France rescinded, absolutely and unconditionally, her decrees. She could not enter into any other engagement without the grossest injustice to her allies, as well as to neutral nations in general; much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British Empire."

According to the tenor of the despatch of Lord Castlereagh to you, my recollection is, that in stating the condition on which the Orders in Council were to be repealed, in relation to the United States, it was specified that the decrees of Berlin and Milan must not be repealed singly and specially in relation to the United States, but be repealed also as to all other neutral nations; and that in no less extent of a repeal of the decrees had the British Government ever pledged itself to repeal the Orders in Council.

However susceptible the passage of your letter may be of a construction reconcilable with the import of the despatch from Lord Castlereagh, yet, as a similar phraseology of your Government on other occasions has had a construction less extensive, and as it is important, in every respect, that there should be no misunderstanding or a possibility of error, you will excuse me for requesting that you will have the goodness to inform me

whether, in any circumstances, my recollection of the import of this passage in Lord Castlereagh's despatch is inaccurate.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, *June 3, 1812.*

SIR: I have received your letter of to-day, requesting an explanation relative to the supposed meaning of a passage in a despatch from Lord Castlereagh to me, that I had the honor to communicate to you confidentially; and I beg leave to state to you, that while I conceive it to be very difficult to give an explanation upon a single point in a note of considerable length, without referring to the whole context, and also believe it to be altogether irregular to enter into a discussion respecting a communication entirely informal, yet I have no hesitation in assuring you that my note of May 30, contains the whole substance of the despatch alluded to.

In the correspondence that will probably take place between us in consequence of the new ground upon which the Duke of Bassano's report has placed the question at issue between our two countries, I shall be extremely happy to enter at full length upon any topic which you may wish particularly to discuss. I have the honor, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *June 4, 1812.*

SIR: I have had the honor to receive your letter of yesterday in reply to mine of the same date.

As the despatch of Lord Castlereagh was communicated by you to me in my official character, to be shown to the President, and was shown to him accordingly, and as the despatch itself expressly authorized such a communication to this Government, I cannot conceive in what sense such a proceeding could be considered confidential, or how it could be understood that the Executive was to receive one communication for itself, and transmit to Congress another, liable, in the opinion of the Executive, to a different or doubtful construction. I cannot but persuade myself, sir, that, on a reconsideration of the subject, you will perceive that there can be no impropriety in a compliance with the request contained in my letter of yesterday. Should I be mistaken in this expectation, I flatter myself that you will see the propriety of freeing your own communication from all ambiguity and liability to misconception. With a view to this, permit me to inquire whether the passage in your letter, stating the condition on which your Government always avowed its readiness to rescind the Orders in Council, namely, as soon as France rescinded absolutely and unconditionally her decrees, includes in its meaning that the decrees must be rescinded in relation to other neutral nations, as well as to the United States, previous

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to a repeal of the Orders in Council in relation to the United States? I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, June 4, 1812.

SIR: I must rely upon your candor to feel for the embarrassment into which your note of this day has thrown me. Willing to comply with the request contained in it, I yet cannot but be sensible that, in making any portion of a despatch from His Majesty's Secretary of State to me the subject of a correspondence between us, I should not be justified to my own Government. I believe there is no example of a correspondence of such a nature, and I should be very loth to establish the precedent.

When I had the honor to make the communication of Lord Castlereagh's despatch to you, in consequence of its being left to my own discretion to do so, I did it because I had reason to think, from the number of my letters which then remained unanswered at your office, such a communication, if made through a note, might have shared the fate of the rest. You will recollect that it was at your own request that I acceded to the despatch being communicated to the President, and that it was also at your instance, as being the only regular way in which the subject could come before the American Government, that I determined to write you a note founded upon it. You were aware, at the latter end of last week, that such was my determination, which I repeated to you through Mr. Graham, who called upon me on the 30th ultimo, to ask me when I contemplated sending it to your office. The note must have reached you, and been read, before any message could have been sent from the Executive to Congress.

I cannot, sir, consider my note as liable to the charge of ambiguity, which you now impute to it. The abandonment of our most important maritime rights is more extensively than ever connected with France, with the demand of a repeal of our Orders in Council; and while you are entirely silent as to how far America concurs with her on this point of vital interest to Great Britain, without even a prospect of a reply from you to our just complaints, as expressed in my note on the coincidence of the attitude taken by America with the hostile system of France, I cannot but be aware of the difficulties to which I should expose myself in entering into an explanation on any insulated passage in it. I might, perhaps, by continued silence on your part, never afterwards have an opportunity of making further explanation; and you are well aware how frequently points, taken unconnected with what precedes or follows them, are liable to misconstruction.

But, sir, a reason, paramount to every other, for my not committing myself to an explanation on any single topic, without the discussion between us were to be continued, is the publication

of the highly important declaration of His Royal Highness the Prince Regent, to which I had the honor to allude in my note to you of this morning. You will there find stated, in as explicit and authentic a manner as language can convey, the grounds upon which His Majesty's Orders in Council will be revoked. I cannot, it is true, as yet refer you officially to this document; but I may now be in the expectation of receiving it in a formal shape within a very few days, and, together with it, every explanation possible which you may require. I have the honor, &c.

AUGUSTUS J. FOSTER.

HON. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, June 4, 1812.

SIR: Since I had the honor of seeing you at your office yesterday, I have perceived an article in the public prints stated to be extracted from an English newspaper, and purporting to be an official declaration of His Royal Highness the Prince Regent, that the Orders in Council will be and are absolutely revoked from the period when the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be expressly and unconditionally repealed. A considerable time has now elapsed since, by order of my Government, I had the honor of urging to you the expediency of procuring such an authentic act from the French Government; and, in all probability, the above declaration may have been issued in the confident expectation that the Government of the United States would have been able to produce it ere this.

At all events, sir, considering the important nature of the above-mentioned article, and the probability that I shall have soon to be the organ of some official communication to the American Government in relation to it, I cannot but trust that no measure will meanwhile be adopted by the Congress which would defeat the endeavor of procuring a complete reconciliation between our two countries.

Should any embarrassments arise in consequence of the declaration on the subject of the proposed revocation of the Orders in Council above alluded to, resting at present upon a mere statement in the newspapers, it will, no doubt, occur to your recollection that, on the enactment of those orders, a measure was taken by Congress for the purpose of meeting them, when they were as yet known but through the public prints.

I have the honor, &c.

AUGUSTUS J. FOSTER.

HON. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, June 6, 1812.

SIR: I have had the honor to receive your letter of the 4th instant. The receipt of that of May 30, has already been acknowledged. As these letters relate to the same subject, (the Or-

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ders in Council,) I shall take both into view in this reply.

I am not disposed to make any unnecessary difficulty, on account of the informality of the document alluded to in the last letter. If the declaration of the Prince Regent was such as to afford the satisfaction desired, it would be received in any form entitled to credit with great interest, as a token of just and friendly sentiments in your Government towards the United States. But nothing is seen in that act of the character which you impute to it. Without removing a single objection to the principle on which the Orders in Council were issued, and have been maintained, it affords a complete justification of the demand heretofore made on your Government for their repeal.

The British Government has complained that the United States demanded the repeal of the Orders in Council on a conditional repeal of the French decrees, although the French condition required nothing of Great Britain which she ought not to have consented to; and was, moreover, a condition subsequent, and not precedent; and it now proposes to repeal the Orders in Council conditionally, also, with this difference: that, the condition on which their repeal is to be made is a condition precedent, and not subsequent, and is likewise one which Great Britain has no right to claim.

This condition requires that the French decrees shall be absolutely and unconditionally repealed; that is, that they shall be repealed, according to explanations given, not only as they related to the United States, but as to all other neutral nations, and, also, as they prohibited a commerce in British manufactures with the enemies of Great Britain.

So far as the French decrees violated the neutral commerce of the United States, we had a right to demand a repeal of them. To that extent we did demand their repeal, and obtained it. The repeal was declared by an authentic and formal act of the French Government, and communicated to this Government by the Minister Plenipotentiary of the United States at Paris, and to the British Government by their Minister Plenipotentiary at London, and has, moreover, been officially published within the United States. The authenticity of the repeal was placed beyond all controversy, and the official manner in which it was communicated to your Government ought to have been satisfactory to it. A general repeal of the French decrees in favor of all neutral nations, and of such parts of them as prohibited a trade with France, and countries under her control, in British manufactures, the United States have not demanded, because they had no right to demand it.

The United States have required of Great Britain no more than they required of France, namely, that her unlawful edicts should be repealed, so far as they related to us. To a compliance with this demand, your Government has prescribed conditions, the mere recital of which is sufficient to show their injustice. The United

States can never suffer their rights to be violated by Great Britain, because the commerce of her enemies is not regulated to suit her interest and policy.

If the Duke of Bassano's report to the Conservative Senate of France, published in a French newspaper, be sufficient evidence that the French decrees are now in force, it is not perceived on what ground the high evidence which has been afforded of their repeal could have been resisted.

It is further made a condition of the proposed repeal, by the declaration of the Prince Regent, that it shall take effect at a future uncertain day, and that the Orders in Council should be again in force, on a contingency of which the British Government is to be sole judge. If this were a ground on which the United States could call on France to repeal her decrees, in case they were still in force as to them, surely the French repeal, to take effect on a future specified day, and whose revival was not provided for on any contingency whatever, was a ground on which their call on Great Britain to repeal her Orders in Council, in respect to the United States, ought not to have been resisted.

In reply to your insinuation that the demand made on your Government, to repeal its edicts which violate the neutral rights of the United States, is made in concert with France to obtain from Great Britain an abandonment of her maritime rights, it is sufficient to refer you to documents which have been long before the public, and particularly to the letter of Mr. Pinkney to the Marquis Wellesley, of January 14, 1811, protesting, in the most pointed manner, against looking to any other source for the opinions and principles of the United States than to the United States themselves. Let me repeat, with respect to the Orders in Council, that all we demand is, that they cease to violate the neutral rights of the United States which they have long violated, and still violate, on the high seas. Should they be continued, as to France, in any form which may not violate these rights, or as to any other neutral nation, to which they may be applicable, it would be for such nation, and not for the United States, to contend against them.

The report of the French Minister, on which this declaration of your Government is founded, affords no proof that the French Government intended by it to violate its engagements to the United States as to the repeal of the decrees. It evidently refers to the continental system, by the means relied on to enforce it. The armies of France can be of no avail either in support or violation of maritime rights. This construction is the more justifiable, from the consideration that it is supported by corresponding acts of the French Government continued from the time of the repeal, and by communications to the Minister Plenipotentiary of the United States at Paris to the date of that report.

I beg you, sir, to be assured that it is painful to me to have imposed the least embarrassment on you by the correspondence on the difference between the tenor of Lord Castlereagh's letter to

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you, and yours founded on it to me. I continue to persuade myself, however, that you will become sensible that, with a knowledge of the extent given by your Government to the conditions on which alone its orders will be repealed, and that this extent was always contemplated by your Government, it was impossible for the President to be inattentive to the fact, or to withhold it from the legislative branch of the Government. I have to add, that, had it been proper for him so to have done, the late hour at which your note was received, (not until noon of the 1st instant,) was not in time to be considered in relation to the message sent to Congress on that day.

With great respect, &c.

JAMES MONROE.

A. J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, June 7, 1812.

SIR: It is extremely painful to me to find that, notwithstanding the assurance which I had the honor to make to you on the authority of communications from His Majesty's Captain General in Canada, that His Majesty's officers had not only had no hand in urging the Indian tribes to the late atrocities committed on the frontiers of the United States, but had even endeavored, in the true spirit of friendly neighborhood, to restrain them as far as lay in their power, such reports still continue to be circulated with revived industry; and have, in a great degree, even been countenanced by statements which were recently made in an address from a Governor of one of the United States to the citizens of that State.

To set this question at rest, I beg leave to transmit to you the enclosed copies of a letter from the late Governor of Canada to His Majesty's Secretary of State for the War Department, and the answer of Lord Liverpool, which have been recently received by me through Lord Castlereagh's office; and from which you will perceive that His Majesty's Ministers had not only expressed their decided approbation of the conduct of the Government of Canada, in using whatever influence they might possess over the Indians to dissuade them from committing hostilities on the citizens of the United States, but also had especially directed that those exertions should be continued.

While I assure you, sir, very frankly, that I do not believe such evidence was necessary to convince the American Government of the erroneous nature of the above-mentioned reports, I yet beg to request that this letter and its enclosures may, as early as possible, be laid before the President.

I also beg leave to add, that it is really a serious inconvenience thus to find it necessary continually to furnish fresh evidence in order to oppose rumors, which, though unsupported by the shadow of a document, or any authority whatever than mere hearsay, do yet derive a consequence from the circulation given to them under the official sanction of a State Government.

I have thought it necessary to be thus explicit

on this subject, on account of the odious nature of the reports in question. Dreadful and horrible as they are, they would, at any time, suffice to excite the most violent irritation through a country; but they surely ought not to be made use of without the most clear and convincing proofs to constitute their veracity. I have the honor, &c.

AUGUSTUS J. FOSTER.

HON. JAMES MONROE, &c.

[Referred to in Mr. Foster's despatch of June 7, 1812.]

Copy of a letter from Sir James H. Craig to the Earl of Liverpool.

QUEBEC, March 29, 1811.

MY LORD: Under the present circumstances existing between His Majesty's Government and that of the American States, I feel it to be necessary to forward to your Lordship the information that is contained in the enclosed letter and papers from Lieutenant Governor Gore, and to which I add a copy of my answer to him on the subject. This is the first direct communication that I have had either from Lieutenant Governor Gore, or from any officer of the Indian Department, relative to the intentions of the Indians. My private accounts, however, which, though not official, were equally to be relied on, gave me assurances of their determination to have recourse to arms, so long ago as in November; and in my wish to assist in saving the American frontier from the horrors usually attending the first burst of an Indian war, by enabling them to take precautions against it, I communicated my accounts to Mr. Morier; and though I thought that an official communication might be extremely objectionable, I gave him, however, permission, if he did not think it improper from any circumstance of situation, in which he might find himself with them, verbally to convey the information to the American Government, and I have since heard from Mr. Morier that he did so. In January I repeated to Mr. Morier that I continued to receive a confirmation of the intelligence I had before sent him, but I do not know whether he made any further communication to the American Government. I have the honor to be, &c.

J. H. CRAIG.

[Referred to in Mr. Foster's despatch of June 7, 1812.]

Copy of a letter from Lord Liverpool to the officer administering the Government of Lower Canada.

DOWNING STREET, July 28, 1811.

SIR: In reference to the despatches Nos. 37 and 39, of Lieutenant Governor Sir James Craig, with their respective enclosures, on the subject of the hostile intentions which have been manifested by the Indians against the Americans, and of the measures which had been taken by that officer to dissuade them from a recourse to arms, I am commanded by His Royal Highness the Prince Regent to acquaint you that the conduct of Sir James Craig, in this respect, has received His Royal Highness's entire approbation, and I am to desire that you will persevere in the attempt

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made by him to restrain the Indians from the commission of any act of hostility on the American frontier. I have the honor to be, &c.

LIVERPOOL.

Mr. Foster to the Secretary of State.

WASHINGTON, June 8, 1812.

SIR: Since I had the honor of writing to you yesterday, I have received some additional papers relating to the subject mentioned in my letter, which I transmit to you, enclosed. They consist of a letter from Sir James Craig to Lord Liverpool, enclosing the extract of a letter from Lieutenant Governor Gore, and of the instructions which he had given to the Deputy Superintendent of Indian Affairs, to exert himself in restraining the Indians from committing any act of hostility against the citizens of the United States.

Allow me, sir, to request that these papers may, without loss of time, be communicated to the President.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

[Referred to in Mr. Foster's letter of June 8, 1812.]

QUEBEC, May 21, 1811.

MY LORD: In a despatch, No. 37, I thought it right to apprise your Lordship of the appearance of hostile intentions towards the Americans, which had shown itself among the Indians in the upper country, as well as of the steps I had taken on the occasion.

In pursuing the same subject, I have now the honor to enclose copies of the letter I have received from Lieutenant Governor Gore, and of the instructions which, in consequence of mine to him, he had given to the Deputy Superintendent of Indian Affairs.

I have the honor to be, &c.

J. H. CRAIG.

The EARL OF LIVERPOOL, &c.

Extract of a letter from Lieutenant Governor Gore to His Excellency Sir James Craig.

YORK, UPPER CANADA, March 2, 1811.

I have the honor to acknowledge the receipt of your Excellency's letter of the 2d of February, which reached me on the 24th. I lost no time in directing the Deputy Superintendent General of Indian Affairs to instruct the officers of the Indian Department to caution and restrain the Indians from committing any act of hostility on the white inhabitants in the neighborhood. A copy of my letter to Colonel Claus is herewith transmitted.

Extract of a letter from Lieutenant Governor Gore to Colonel Claus, Deputy Superintendent General of Indian Affairs.

YORK PLACE, Feb. 26, 1811.

In further notice of Mr. Elliott's letters to you, it is desirable that you should desire him to be more than usually circumspect in his communications with the Indians, so as to leave no possible suspicion of favoring their projected hostil-

ities against the United States of America. You will, therefore, direct him, as occasion may offer, to impress upon the Indians the certainty of eventual misfortune to themselves from any attack on the whites; to point out to them that the Americans are become so strong, that any effort on their part to prevail by arms must be in vain; and, that it is from such an assurance, and out of regard to their safety, comfort, and happiness, that their great father expressly forbids that any encouragement should be afforded to them in any warlike enterprise.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, June 8, 1812.

SIR: I have had the honor to receive your letter of June 1st, with the papers enclosed, relating to several British seamen who are stated to have entered into the naval service of the United States.

Without repeating what I had the honor to state to you in a personal interview respecting the deserter from the *Gleaner*, and the conduct of the armed party from that vessel, who pursued him some distance into the country, I shall confine my remarks to your complaint of the detention of British seamen in American vessels, twenty-eight of whom are said to have been on board the *Constitution*. Although the fact cannot be admitted on the evidence produced, because it is contrary to the laws of the United States, yet it will be inquired into. It is also possible that the seamen so detained, admitting the fact of their detention, may have become legally American citizens; in which case, they must be protected as such. The Government of the United States can make no distinction between native and naturalized citizens, as has been already remarked to you. I repeat, also, that your Government cannot object to this rule, because the British statute naturalizes, *ipso facto*, all alien seamen who shall have been two years on board a British ship of war, and considers them, equally with natives, within the allegiance and entitled to the protection of Great Britain.

The principal object of your letter seems to be, to find some analogy between the American practice, with respect to seamen, and the British practice; and to deduce from the former a justification of the latter. Permit me to note the difference, or rather the contrast, between them.

The regulations of the United States prohibit the enlistment of aliens into their vessels of war. No such regulations exist on the side of Great Britain.

Enlistments by force, or impressments, are contrary to the laws of the United States. This mode of procuring crews for the public ships is not only practised by Great Britain within her legal jurisdiction, but is extended to foreign vessels on the high seas, with abuses which aggravate the outrage to the nations to whom the vessels belong.

Most of the States composing our Union have enacted laws providing for the restoration of sea

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men abandoning the service of merchant vessels, to which they were bound by voluntary engagement. If no provision has been made for the surrender of the deserters from public ships, it is because such deserters, although in many instances forced into the service, would be deemed malefactors, and punishable as such; and it is not the practice of any country, particularly of Great Britain, to surrender malefactors without a stipulation, which is always reciprocal. In Great Britain we know from experience that no provision exists for restoring American seamen to our merchant vessels, even to the fulfilment of their voluntary engagements; and if deserters from American ships of war are ever restored, it is by the courtesy, not the legal duty, or perhaps authority, of British naval commanders, and from the policy of recommending a practice which, if mutual, must be evidently in favor of the British service—the desertion from it being so common, in comparison with that from the service of the United States.

You observe that your Government has charged you to state, that it will continue to give the most positive orders against the detention of American citizens on board British ships of war. If these orders were to prohibit the impressments of seamen from American vessels at sea, the great source of the evil, they would have been a welcome proof of the disposition to do justice and promote a good understanding between the two countries. Nothing short of this can be an adequate remedy, and the United States are known to be ready to substitute to the practice the most liberal arrangements on the subject. But suppose the orders to be given as signified, and in the latitude and form promising most efficacy, how could they restore that part of the thousands of our citizens who have been impressed or passed into ships stationed or cruising in remote parts of the globe? But it is signified only that your Government will continue to give orders against the detention of American citizens on board British ships of war. It follows that they are to be detained, as heretofore, until formal proof can be produced to the British Admiralty, in each particular instance, that the seamen is a native citizen of the United States; the difficulty and delay in doing which are too obvious to need explanation. Nor is this the only cause of complaint. When such proof has been produced to the British Admiralty, a direct refusal is made to the discharge of the seaman, if he has resided in Great Britain, shall have married there, or shall have accepted the bounty given to seamen voluntarily entering the service, although the American seamen, after having been forced into the service, have accepted the bounty either to relieve their wants, or otherwise to alleviate their condition. I omit other causes of detention which might be mentioned. Add to the whole, that it is not sufficient to prove that the seamen taken from American vessels are not subjects of Great Britain nor the subjects of her enemy. It has been the invariable practice of the British cruisers to include in their impressments from American vessels the citizens and

subjects of every neutral nation, even where it was known that they were such; and no instance it is believed, can be given of the success of an application for the restoration of such neutral aliens to the service of the United States.

These observations cannot fail, as I presume, to satisfy you, sir, how little ground your Government has for the complaints stated in your letter, and how much the United States have for those they have so long and so strenuously, but, at the same time, so ineffectually presented, in behalf of their injured mariners. I have the honor to be, &c. JAMES MONROE.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *June 10, 1812.*

SIR: In answer to the letters of the 7th and 8th instant, which I have had the honor to receive from you, disclaiming any agency of your Government in promoting the hostility of the Indians, it is my duty to communicate to you such information as has been transmitted to this Government on the subject, at different periods, since the year 1807. From these documents it appears, that, whatever may have been the disposition of your Government, the conduct of its subordinate agents has tended to excite the hostility of those tribes towards the United States.

In estimating the comparative evidence on this subject, it is impossible not to recollect the communication lately made to this Government respecting the conduct of Sir James Craig in another important transaction, which, it appears, was proved by Lord Liverpool. I have the honor to be, &c. JAMES MONROE.

[The following papers are those referred to and enclosed in Mr. Monroe's letter of June 10.]

Extracts of letters to the Secretary of War, from Captain Dunham, of the United States' Army, dated

MICHILIMACKINAC, *May 24, 1807.*

There appears to be a very general and extensive movement among the savages in this quarter. Belts of wampum are rapidly circulating from one tribe to another, and a spirit is prevailing by no means pacific. The enclosed *talk*, which has been industriously spread among them, needs no comment.

There is certainly mischief at the bottom, and there can be no doubt in my mind but that the object and intention of the great Manitou, or second Adam, under the pretence of restoring to the aborigines their former independence, and to the savage character its ancient energies, is, in reality, to induce a general effort to rally, and to strike somewhere a desperate blow.

Extract from a talk delivered at Le Marouitinnong, entrance of Lake Michigan, by the Indian Chief Le Magouis, or the Trout, May 4, 1807.

I am the father of the *English*, of the *French*, of the *Spaniards*, and of the *Indians*. I created the first man, who was the common father of all these people, as well as yourselves; and it is through

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him, whom I have awaked from his long sleep, that I now address you. *But, the Americans I did not make. They are not my children, but the children of the evil spirit.* They grew from the scum of the great waters, when it was troubled by the evil spirit, and the froth was driven into the woods by a strong east wind. They are numerous, but I hate them. My children, you must not speak of this talk to the whites—it must be hidden from them. I am now on the earth, sent by the Great Spirit to instruct you. Each village must send me two or more principal Chiefs to represent you, that you may be taught. The bearer of this talk will point out to you the path to my wigwam. I could not come myself to Abre Choche, because the world is changed from what it was. It is broken and leans down, and, as it declines, the Chippewas and all beyond will fall off and die. Therefore, you must come and see me, and be instructed. Those villages who do not listen to this talk, and send me two deputies, will be cut off from the face of the earth.

From Captain Dunham to the Secretary of State.

MICHILIMACKINAC, August 30, 1807.

The cause of the hostile feelings on the part of the Indians is principally to be attributed to the influence of foreigners trading in the country.

From Governor Harrison.

JEFFERSONVILLE, FALLS OF OHIO,
April 14, 1808.

A young man from the Delaware towns came to inform me that a Pottawatomie Indian had arrived at the towns with a speech from the British in which they were informed that they (the British) were upon the point of commencing hostilities against the United States, and requesting the Delawares to join them.

From General William Clark.

ST. LOUIS, April 30, 1809.

I have the honor to enclose to you a copy of a letter which confirms my suspicions of the British interference with our Indian affairs in this country.

Extract referred to above.

I am at present in the fire, receiving Indian news every day. A Chief of the Puant nation appears to be employed by the British to get all the nations of Indians to Detroit, to see their fathers the British, who tell them that they pity their situations with the Americans, because the Americans had taken their lands and their game; that they must join, and send them off from their lands. They told the savages that the Americans would not give them a blanket, nor anything good for their families. They said they had but one father that had helped them in their misfortunes; and that they would assemble, defend their father, and keep their lands. It appears that four English subjects have been at Rivière à la Roche this winter, in disguise; they have been there to get the nations together, and send them on the American frontiers. The Indians are pushed on by our enemies to take the fort at Bellevue.

12th CON. 1st SESS.—59

From Samuel Tupper, Indian Factor.

SANDUSKY, June 7, 1809.

The conduct of British traders in introducing spirituous liquors among the Indians in this part of the country, and their determined hostility to the measures of our Government, have long been subjects of complaint.

From Governor William Hull.

DETROIT, June 16, 1808.

The influence of the Prophet has been great, and his advice to the Indians injurious to them and the United States. The powerful influence of the British has been exerted in a way alluring to the savage character.

From Governor Harrison.

VINCENNES, June 14, 1810.

An Iowa Indian informs me, that two years ago this Summer, an agent from the British arrived at the Prophet's town, and, in his presence, delivered the message with which he was charged; the substance of which was, to urge the Prophet to unite as many tribes as he could against the United States, but not to commence hostilities until they gave the signal. From this man, and others of his nation, I learn that the Prophet has been constantly soliciting their own and other tribes of the Mississippi to join them against the United States.

From Governor Harrison.

VINCENNES, July 18, 1810.

A considerable number of Sacs went, some time since, to see the British superintendent, and, on the 1st instant, fifty more passed Chicago for the same destination. A Miami Chief, who has just returned from his annual visit to Malden, after having received the accustomed donation of goods, was thus addressed by the British agent: "My son, keep your eyes fixed on me; my tomahawk is now up; be you ready, but do not strike until I give the signal."

From General William Clark.

ST. LOUIS, July 20, 1810.

One hundred and fifty Sacs are on a visit to the British agent, by invitation, and a small party on a visit to the island of St. Joseph, in Lake Huron.

From Governor Harrison.

VINCENNES, July 25, 1810.

There can be no doubt of the designs of the Prophet and the British Agent of Indian Affairs to do us injury. This agent is a refugee from the neighborhood of —, and his implacable hatred to his native country prompted him to take part with the Indians in the battle between them and General Wayne's army. He has, ever since his appointment to the principal agency, used his utmost endeavors to excite hostilities; and the lavish manner in which he is allowed to scatter presents among them shows that his Government participates in his enmity, and authorizes his measures.

From Governor Hull.

DETROIT, July 27, 1810.

Large bodies of Indians from the westward and southward continue to visit the British post at

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Amherstburg, and are supplied with provisions, arms, ammunition, &c. Much more attention is paid to them than usual.

Extract from the speech of Red Jacket, in behalf of himself and the other deputies of the Six Nations. February, 1810.

BROTHER: Since you have had some disputes with the British Government, their agents in Canada not only endeavored to make the Indians at the Westward your enemies, but they have sent a war-belt amongst our warriors, to poison their minds, and make them break their faith with you. At the same time, we had information that the British had circulated war belts among the Western Indians, and within your territory.

From John Johnson, Indian Agent.

FORT WAYNE, August 7, 1810.

Since writing to you on the 25th ultimo, about one hundred men of the Saukies have returned from the British agent, who supplied them liberally with everything they stood in want of. The party received forty-seven rifles and a number of fusils, with plenty of powder and lead. This is sending firebrands into the Mississippi country, inasmuch as it will draw numbers of our Indians to the British side, in the hope of being treated with the same liberality.

From Governor Harrison.

VINCENNES, February 6, 1811.

If the intentions of the British Government are pacific, the Indian Department of Upper Canada have not been made acquainted with them; for they have very lately said everything to the Indians who have visited them, to excite them against us.

From John Johnson.

FORT WAYNE, February 8, 1811.

— has been at this place. The information derived from him is the same I have been in possession of for several years, to wit, the intrigues of the British agents and partisans in creating an influence hostile to our people and Government within our territory.

From Mr. Irwin, Indian Factor.

CHICAGO, May 13, 1811.

An assemblage of the Indians is to take place on a branch of the Illinois, by the influence of the Prophet. The result will be hostile, in the event of a war with Great Britain.

From Governor Harrison.

VINCENNES, September 17, 1811.

— states that almost every Indian from the country above this had been, or were then gone, to Malden, on a visit to the British agent. We shall probably gain our destined point at the moment of their return. If, then, the British agents are really endeavoring to instigate the Indians to make war upon us, we shall be in their neighborhood at the very moment when the impressions which have been made against us are more active in the minds of the savages.

— succeeded in getting the chiefs together at Fort Wayne, though he found them all prepar-

ing to go to Malden. The result of the council discovered that the whole tribes (including the Weas and Eel Rivers, for they are all Miamies) were about equally divided in favor of the Prophet and the United States. Lafrousier, the Wea chief, whom I before mentioned to you as being seduced by the Prophet, was repeatedly asked by — what land it was that he was determined to defend with his blood—whether it was that which was ceded by the late treaty or not? But he would give no answer.

— reports that all the Indians of the Wabash have been, or now are, on a visit to the British agent at Malden. He has never known one-fourth as many goods given to the Indians as are now distributing. He examined the share of one man, (not a chief,) and found that he had received an elegant rifle, twenty-five pounds of powder, fifty pounds of lead, three blankets, three strouds of cloth, ten shirts, and several other articles. He says that every Indian is furnished with a gun (either rifle or fusil) and an abundance of ammunition. A trader of this country was lately in the King's store at Malden, and was told that the quantity of goods for the Indian Department which had been sent out this year exceeded that of common years by twenty thousand pounds sterling. It is impossible to ascribe this profusion to any other motive than that of instigating the Indians to take up the tomakawk. It cannot be to secure their trade; for all the peltries collected on the waters of the Wabash in one year, if sold in the London market, would not pay the freight of the goods which have been given to the Indians.

I am decidedly of opinion that the tendency of the British measures is hostility to us.

From Governor Willie Blount.

NASHVILLE, September 11, 1811.

There is in this place a very noted Chief of the Chickasaws, a man of truth, who wishes the President should be informed that that there is a combination of the Northern Indians, promoted by the English, to unite in falling on the frontier settlements, and are inviting the Southern tribes to join them.

From Governor Ninian Edwards.

CAHOKIA, ST. CLAIR COUNTY,

Illinois Territory April 25, 1812.

The opinion of the celebrated British trader Dixon is, that, in the event of a British war, all the Indians will be opposed to us, and he hopes to engage them in hostility by making peace between the Sioux and Chippewas, two very large nations, and getting them to declare against us.

Extract of a letter from Ninian Edwards, Esq., Governor of the Illinois Territory, to the Secretary of War, dated

ILLINOIS TERRITORY, Jan. 25, 1812.

Many of those Indians certainly contemplate joining the British. They are in the habit of visiting Fort Malden annually; and, as soon as they are prepared for their departure thither, they will (as I believe they have already declared)

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make inroads upon our settlements, as well to take scalps as to steal horses.

Extract of a letter from William Clark to the Secretary of War, dated

St. Louis, February 13, 1812.

If possession was taken of a point about the mouth of Fox river, where it enters into Green bay, communications would be cut off between the traders and Indians on the Mississippi, below Prairie du Chien and the British trading-houses on the lakes. Smuggling might be prevented through that channel. Mr. Dickson and those British traders, who are also agents, who have smuggled an immense quantity of goods through that channel this year, and now in the Mississippi, could be caught on their return as they go out in the Spring. This description of people grasp at every means in their power to wean the affections of the Indians from anything that is American; having it in their power to make large presents to the Indians, the most of whom are to be bought, and by this means create great difficulty wherever they have an influence.

Extracts of a letter from John Shaw, Esq., Indian Agent, to the Secretary of War, dated

FORT WAYNE, 10th of 3d month, 1812.

It appears that the hostile disposition of the Indians, confederated under the Shawanese Prophet, that so recently manifested itself in the conflict on the Wabash, is not yet changed. By everything that I am able to learn, they are secretly plotting to strike an effective blow on our frontier, and it is said that they have been this winter invited by the British agent at Fort Malden to pay him a visit; and I believe it is a fact that a considerable number of them have recently gone to that place with a view of procuring ammunition.

A speech is also said to have been recently sent to Winnemac, a Pottawatamie chief, from Elliott, the British agent, but to what purpose I have not yet been able to learn.

Extracts of a letter from John Shaw, Esq., Indian Agent, to the Secretary of War, dated

FORT WAYNE, 1st of 3d month, 1812.

It has been reported by a Miami Indian, who was hunting a few miles from this, that twenty-four Indians of the Shawanese Prophet's band, composed of Winnebagoes, Kickapoos, and Shawanese, passed his camp about six days ago, on their way to Sandusky, for a quantity of powder and lead, which they said was to be sent them from Canada.

It also appears, from the statements of a gentleman of Detroit, that the Morpock, (Pottawatamie Chief,) with a small party of Indians, has been, for a considerable time past, encamped on the river Raisin, and constantly getting provisions from the British at Fort Malden; and that it is firmly believed that he is waiting for a signal from Elliott, the British agent, to commence hostilities on our frontier.

Extract of a letter from Robert Forsyth, Esq., to Captain Rhea, commanding at Fort Wayne, dated

FORT WAYNE, March 10, 1812.

I have no doubt but those Indians that passed this post some time ago are a deputation sent to the British garrison for the purpose of procuring ammunition.

The Morpock, a Pottawatamie chief, wintered at river Huron, about twenty miles from the garrison of Amherstburg, and has drawn provisions and ammunition during the whole winter; he has about twenty men with him.

Extract of a letter from B. F. Stickney, Esq., Indian Agent, to His Excellency William H. Harrison, dated

FORT WAYNE, April 18, 1812.

Mr. Shaw has informed you that twenty-four of the Prophet's band had passed this place, in the last of February, for Fort Malden, to receive ammunition which was promised to be ready for them. They returned on the 4th instant, with as much gunpowder, lead, and new fusils, as they could carry.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, June 10, 1812.

SIR: I have the honor to transmit to you, for the information of your Government, the enclosed papers, Nos. 1 and 2, in relation to William Helby, alias William Bowman, a sailor belonging to the United States' sloop of war the Hornet, for whom Lord Castlereagh, on the 20th of February, when his Lordship supposed that vessel was in a British port, informed Mr. Russell that a writ of *habeas corpus* would be issued and enforced by the legal authority of Great Britain.

I have the honor to be, &c.

JAMES MONROE.

A. J. FOSTER, Esq., &c.

No. 1.

NAVY DEPARTMENT, July 2, 1810.

SIR: Having seen the deposition of Elizabeth E. Bowman, in the case of William Bowman, alias William Helby, alias William Elby, said to have been compelled by force to enter on board the Hornet, I wrote to Captain Lawrence, commander of the Hornet, for information upon the subject, and have received from him the paper which I have the honor of transmitting herewith.

It can be scarcely necessary for me to remark, that neither the laws nor usages of our country would sanction any compulsory means to induce persons to enter the navy of the United States.

I am, with great respect, sir,

PAUL HAMILTON.

The Hon. the SECRETARY OF STATE.

No 2.

UNITED STATES' SHIP HORNET,

New York, June, 2, 1812.

I do hereby certify that, in consequence of not being able to get a berth on board a merchant ship, and being absolutely in want of bread, I

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was induced to enter as a seaman on board the *Hornet*, and for that purpose repaired to her rendezvous, then open in Philadelphia, and voluntarily entered with Lieutenant Cassin, on the 3d July, 1811, to serve the United States of America honestly and faithfully for the term of two years, unless sooner discharged. At the time I shipped, I declare that I was perfectly sober, and that, as soon as I had received my three months' advance, I went on board the gunboat, then lying off the navy yard for the purpose of receiving the men shipped for the *Hornet*, accompanied by the officer commanding her and the landlord of the rendezvous; and I solemnly declare that no force whatever was used to compel me to enter the service, or to get me on board the gunboat.

WILLIAM HELBY.

JOS. SMOOT, *Midshipman, U. S. N.* }
JACOB M. JACOBS, *Captain's Clerk,* } *Witnesses.*

Mr. Foster to Mr. Monroe.

WASHINGTON, June 10, 1812.

SIR: It has been extremely satisfactory to me to find, by your letter dated June 6, which I had the honor to receive yesterday morning, that it was not the wish of the American Government to close all further discussion relative to the important question at issue between the two countries. I beg you to be assured, sir, that it never was my intention, in alluding to my letters which had remained without answer at your office, to use any expressions which would, in the most remote manner, contain any thing personal. I shall ever be ready, with pleasure, to bear testimony to that frankness, candor, and good temper, which so eminently distinguish you, and have been acknowledged to belong to you by all who have ever had the honor to discuss with you any question of public interest.

But, sir, although you were not backward in entering into full explanations with me verbally, I could not but feel, particularly as I had just had communications to make to you of the greatest importance, that I had a right to expect from you a written reply to them; and while I remembered that two of my former notes were still unanswered, the one written three months ago, containing, among other important topics, a particular question which I was expressly instructed to put to you, as to whether you would point to any public act on the part of the French Government by which they had really revoked their decrees, and the other furnishing strong evidence of the continued existence of those decrees; also, when I perceived that my note, communicating the Duke of Bassano's report, which you knew was to be sent to you on the 1st instant, was not waited for, but that a message was transmitted by the Executive to Congress, which, it seems, contained a reference to an insulated passage in the despatch on which my note was founded, that, if taken unconnected with what preceded or followed, it might be liable to misconception, I could not avoid apprehending that no means of further explanation might be left open to me.

I beg you to be assured, sir, that if I was embarrassed by your demands of an explanation, as to what appeared to you to be a difference between Lord Castlereagh's despatch, communicated to you, and my note, it arose from the novelty of the demand, that seemed to involve an informality of proceeding, in which I could not feel myself justified in acquiescing. Had you, in making a reply to my communication, asked me how far a repeal of the French decrees was demanded by my Government, and as to whether a special repeal as far as respected America would be sufficient, I should have had no hesitation in giving you every satisfaction.

Your note of the 6th instant has, by showing that the door was not absolutely shut to a continuation of our discussion, relieved me from further difficulty on this point.

I have no hesitation, sir, in saying, that Great Britain, as the case has hitherto stood, never did, nor ever could, engage without the grossest injustice to herself and her allies, as well as to other neutral nations, to repeal her orders as affecting America alone, leaving them in force against other States, upon condition that France would except singly and specially America from the operation of her decrees. You will recollect, sir, that the Orders in Council are measures of defence, directed against the system contained in those decrees; that it is a war of trade which is carried on by France; that what you call the municipal regulations of France have never been called municipal by France herself, but are her main engines in that novel and monstrous system. It cannot, then, be expected that Great Britain should renounce her efforts to throw back upon France the evils with which she menaces Great Britain, merely because France might seek to alleviate her own situation by waiving the exercise of that part of her system which she cannot enforce.

But, sir, to what purpose argue upon a supposed case; upon a state of things not likely to occur, since the late report and *Senatus Consultum* which have been published to the world, as it were, insultingly in the face of those who would contend that any repeal whatever had taken place of the decrees in question?

You draw a comparison between the mode in which this instrument has appeared, and that which you call the high evidence of the repeal as stated in Mr. Champagny's note; and it would almost seem as if you considered the latter as the most authentic of the two; but, sir, you cannot seriously contend that the Duke of Bassano's report, with the *Senatus Consultum* accompanying it, published in the official paper of Paris, is not a very different instrument from the above letter, offering a mere provisional repeal of the decrees, upon conditions utterly inadmissible; conditions, too, which really formed of themselves a question of paramount importance.

The condition then demanded, and which was brought forward so unexpectedly, was a repeal of the blockade of May, 1806, which Mr. Pinkney, in the letter you have referred me to, declar-

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ed to have been required by America as indispensable in the view of her acts of intercourse and non-intercourse, as well as a repeal of other blockades of a similar character, which were maintained by Great Britain to be founded on strict maritime right.

The conditions now annexed to the French demand are much more extensive, and, as I have shown, include a surrender of many other of the most established principles of the public law of nations.

I cannot, I confess, see upon what ground you contend that the report of the Duke of Bassano affords no proof against any partial repeal of the French decrees. The principles advanced in that report are general; there is no exception made in favor of America; and in the correspondence of Mr. Barlow, as officially published, he seems to allow that he had no explanation respecting it. How can it, therefore, be considered in any other light than as a republication of the decrees themselves, which, as it were, to take away all grounds for any doubt, expressly advances a doctrine that can only be put in practice on the high seas, viz: "that free ships shall make free goods;" since the application of such a principle to vessels in port is absolutely rejected under his Continental system.

It is, indeed, impossible to see how, under such circumstances, America can call upon Great Britain to revoke her Orders in Council. It is impossible that she can revoke them at this moment in common justice to herself and her allies; but, sir, while under the necessity of continuing them, she will be ready to manage their exercise so as to alleviate as much as possible the pressure upon America; and it would give me great pleasure to confer with you at any time upon the most advisable manner of producing that effect.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *June 13, 1812.*

SIR: I am not aware that any letter of yours, on any subject on which the final decision of this Government had not been communicated to you, has been suffered to remain without a prompt and written answer; and even in the cases thus supposed to have been settled, which you thought proper to revive, although no favorable change had taken place in the policy or measures of your Government, I have never failed to explain to you informally, in early interviews, the reasons which made it imperiously the duty of the United States to continue to afford to their rights and interests all the protection in their power. The acknowledgment of this, on your part, was due to the frankness of the communications which have passed between us on the highly important subjects on which we have treated, and I am happy to find, by your letter of the 10th instant, that, in relying on it, I have not been disappointed.

The impropriety of the demand made by your Government of a copy of the instrument or in-

structions given by the French Government to its cruisers, after the repeal of the Berlin and Milan decrees, was sufficiently shown in Mr. Pinkney's letter to the Marquis Wellesley of the 10th of December, 1810, and of my letters to you of 23d July, 1811, and 14th January last. It was for this reason that I thought it more suitable to refer you to those letters for the answer to that demand, than to repeat it in a formal communication.

It excites however, no small surprise that you should continue to demand a copy of that instrument, or any new proof of the repeal of the French decrees, at the very time that you declare that the proof which you demand, in the extent to which we have a right to claim the repeal, would not, if afforded, obtain a corresponding repeal of the Orders in Council. This demand is the more extraordinary, when it is considered that, since the repeal of the decrees, as it respects the United States, was announced, your Government has enlarged its pretensions as to the conditions on which the Orders in Council should be repealed, and even invigorated its practice under them.

It is satisfactory to find that there has been no misapprehension of the condition, without which, your Government refuses to repeal the Orders in Council. You admit that, to obtain their repeal, in respect to the United States, the repeal of the French decrees must be absolute and unconditional, not as to the United States only, but as to all other neutral nations; nor as far as they affect neutral commerce only, but as they operate internally and affect the trade in British manufactures with the enemies of Great Britain. As the Orders in Council have formed a principal cause of the differences which unhappily exist between our countries, a condition of their repeal, communicated in any authentic document or manner, was entitled to particular attention; and surely none could have so high a claim to it as the letter from Lord Castlereagh to you, submitted by his authority to my view, for the express purpose of making that condition, with its other contents, known to this Government.

With this knowledge of the determination of your Government, to say nothing of the other conditions annexed to the repeal of the Orders in Council, it is impossible for me to devise or conceive any arrangement consistent with the honor, the rights, and interests of the United States, that could be made the basis, or become the result of a conference on the subject. As the President, nevertheless, retains his solicitude to see a happy termination of any difference between the two countries, and wishes that every opportunity, however unpromising, which may possibly lead to it, should be taken advantage of, I have the honor to inform you that I am ready to receive and pay due attention to any communications or propositions having that object in view which you may be authorized to make.

Under existing circumstances, it is deemed most advisable, in every respect, that this should be done in writing, as most susceptible of the requisite precision, and least liable to misapprehen-

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sion. Allow me to add, that it is equally desirable that it should be done without delay. By this it is not meant to preclude any additional opportunity which may be afforded by a personal interview. I have the honor to be, &c.

JAMES MONROE.

A. J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, June 14, 1812.

SIR: I have the honor to acknowledge the receipt of your letter of the 13th inst.

It is really quite painful to me to perceive that, notwithstanding the length of the discussions which have taken place between us, misapprehensions have again arisen respecting some of the most important features in the questions at issue between the two countries, which misapprehensions, perhaps, proceeding from my not expressing myself sufficiently clear in my note of the 10th inst. in relation to one of those questions, it is absolutely necessary should be done away.

I beg leave again to state to you, sir, that it is not the operation of the French decrees upon the British trade with the enemies of Great Britain that has ever formed a subject of discussion between us, and that it is the operation of those decrees upon Great Britain, through neutral commerce only, which has really been the point at issue. Had America resisted the effect of those decrees in their full extent upon her neutral rights, we should never have had a difference upon the subject; but while French cruisers continue to capture her ships under their operation, she seems to have been satisfied if those ships were released by special Imperial mandates, issued as the occasion arose, and she has chosen to call municipal an unexampled assumption of authority by France in countries not under French jurisdiction, and expressly invaded for the purpose of preventing their trade with England upon principles directly applicable to, if they could be enforced against America.

I beg you to recollect, sir, that if no revocation has been made of the Orders in Council, upon any repeal of the French decrees, as hitherto shown by America to have taken place, it has not been the fault of His Majesty's Government. It was France, and afterwards America, that connected the question relative to the right of blockade with that arising out of the Orders in Council. You well know, that, if these two questions had not been united together, the Orders in Council would have been revoked in 1810. How could it be expected that Great Britain, in common justice to other neutral nations, to her allies, and to herself, should not contend for a full and absolute repeal of the French decrees, or should engage to make any particular concession in favor of America, when she saw that America would not renounce her demand for a surrender, with the Orders in Council, of some of our most important maritime rights.

Even to this day, sir, you have not explicitly stated, in any of the letters to which you refer me,

that the American Government would expressly renounce asking for a revocation of the blockade of 1806, and the other blockades alluded to in Mr. Pinkney's letter; much less have I been able to obtain from you any disclaimer of the right asserted by France to impose upon the world the new maritime code promulgated by France in the late republication of her decrees, although I have, by order of my Government, expressly stated their expectation of such disclaimer, and repeatedly called for an explanation on this point.

I will now say, that I feel entirely authorized to assure you, that if you can at any time produce a full and unconditional repeal of the French decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any connexion with the question concerning our maritime rights, we shall be ready to meet you with a revocation of the Orders in Council. Previously to your producing such an instrument, which I am sorry to see you appear to regard as unnecessary, you cannot expect of us to give up our Orders in Council.

In reference to the concluding paragraph of your letter, in answer to mine of the 10th inst., I will only say, that I am extremely sorry to find you think it impossible to devise or conceive any arrangement consistent with the honor, rights, and interests of the United States, which might tend to alleviate the pressure of the Orders in Council upon the commerce of America. It would have given me great satisfaction if we could have fallen upon some agreement that might have had such effect. My Government, while under the imperious necessity of resisting France with her own weapons, most earnestly desires that the interests of America may suffer as little as possible from the incidental effect of the conflict. They are aware that their retaliatory measures have forced the Ruler of France to yield, in some degree, from his hostile decrees; and whether it were more desirable to push those measures rigorously on until they complete the breaking of it up altogether, (the main object of our retaliatory system, or take advantage of the partial and progressive retractions of it, produced by the necessities of the enemy, has been a question with His Majesty's Government. It is one on which they would have been most desirous to consult the interests of America. Under existing circumstances, however, and from our late communications, I have not felt encouraged to make you any written proposal, arising out of this state of things; I shall, therefore, merely again express to you that, as the object of Great Britain has been throughout to endeavor, while forced in behalf of her most important rights and interests to retaliate upon the French decrees, to combine that retaliation with the greatest possible degree of attention to the interests of America. It would give His Majesty's Government the most sincere satisfaction if some arrangement could be found which would have so desirable an effect.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Hon. JAMES MONROE, Esq., &c.

*Relations with Great Britain.*III.—*Correspondence on the subject of the British ship Little Belt.*

J. P. Morier, Chargé d'Affaires of His Britannic Majesty, to Mr. Monroe, Secretary of State.

BALTIMORE, June 26, 1811.

SIR: I have the honor to enclose a copy of an official letter addressed to Rear Admiral Sawyer, by Captain Bingham, commanding His Majesty's sloop the *Little Belt*, which contains an account of the late engagement between that ship and the American frigate, the *President*.

In thus communicating to you, without orders from His Majesty's Government, this document, which, in the most essential part, differs so materially from that of Commodore Rodgers, I trust that this Government will receive it as a proof of the sincere desire which exists with me to open the way to an amicable arrangement of the question which may arise out of this unfortunate affair, when it shall be known to His Majesty's Government. I have the honor to be, &c.

J. P. MORIER.

HON. JAMES MONROE, &c.

Mr. Monroe, Secretary of State, to Mr. Morier, Chargé d'Affaires of His Britannic Majesty.

DEPARTMENT OF STATE, June 28, 1811.

SIR: I had the honor to receive yesterday your letter of the 26th instant, communicating a statement from Captain Bingham to Admiral Sawyer, of the circumstances attending the late unfortunate encounter between the United States frigate the *President* and His Britannic Majesty's sloop the *Little Belt*.

It is to be regretted that the statement made by Captain Bingham should have varied in any circumstance from that made by the commander of the American frigate. I flatter myself, with the disposition of the President, which I am authorized to express, to make it the subject of mutual and friendly explanations, that its disagreeable tendency will be obviated. I am induced to express this expectation with the more confidence, from the conciliatory manner in which you have made this communication.

I have the honor to be, &c.

JAMES MONROE.

Mr. MORIER, Chargé, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 3, 1811.

SIR: The assurances which you did me the honor to give me yesterday, verbally, that no instructions whatever had been given to Commodore Rodgers which could, under any construction, be meant to authorize his attempting to recover by force any person claimed as an impressed American citizen from on board any of His Majesty's ships of war, were amply sufficient to convey to my mind every satisfaction upon that subject; the reports, however, current in the United States, and connected with Commodore Rodgers's conduct and proceedings, as well as the inferences which will be drawn from the expressions which he used to the captain of His Majes-

ty's sloop *Little Belt*, being of a tendency to create doubts in Great Britain as to the nature of the authority under which he acted, I willingly accept your offer of making me the same statement in a more formal manner, in order that I may transmit it to my Government to prevent all possible mistake on so important a point.

The question arising out of the encounter between the United States frigate *President* and His Majesty's sloop *Little Belt* will then remain limited to the act itself. You are already, sir, in possession of the British commander's statement of the circumstances which attended it. His account, and that of the American commodore, differ very materially with respect to some of the most important features of the transaction; but in this they agree, that the chase which brought on the action commenced on the part of Commodore Rodgers; for it cannot be maintained that the advance made by Captain Bingham for the purpose of ascertaining if the sail descried by him was His Majesty's ship *Guerriere*, which it appears he had orders to join, was for the purpose of chasing, even if that could be urged as a plea by the American commander. As soon as he found his signal unanswered, he bore away; until, to his infinite surprise, he found himself the object of the strange vessel's eager pursuit and hostile attitudes. What could be Commodore Rodgers's intention is not apparent. That he could not discover at the distance of seventy or one hundred yards that the ship before him was a flush-deck sloop, though it was but a little after eight o'clock on the 16th of May; that he could not make out her colors at half-past six o'clock; that his guns were double-shotted; and that, with the security he possessed from the great force and superior sailing of the ship under his command, and the circumstance of belonging to a neutral nation, he did not rather hold off during the night if he wished to speak the sloop, than by running under her stern in a menacing attitude, incur the risk of provoking a misunderstanding, must appear unaccountable to the comprehension of every unprejudiced person, and will, I am sure, sir, seem to you a sufficient reason, if there were no other, to warrant my demanding that an examination be instituted into his conduct, with a view to suitable satisfaction being afforded to His Majesty for the loss of so many of his subjects so wantonly slaughtered, and for the insult offered to his flag. But should Captain Bingham's charges be brought home to Commodore Rodgers, of his having refused to state the name of the nation he belonged to, though asked to do so on nearing each other in the dark, and of having fired a broadside into the sloop without provocation, which might at once have sunk so small a vessel, I am convinced I need only appeal to the justice of the American Government for that Government to see in its proper light the magnitude of the outrage and offer to His Majesty every reparation that can appear due.

It is with great pleasure, sir, that I avail myself of this opportunity to acknowledge the promptness with which you came forward with the as-

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surances alluded to in the first part of this letter, and the readiness which you showed to receive any communications from me in regard to the unhappy occurrence which forms the subject of the remainder. I have the honor to be, &c.

A. J. FOSTER.

HON. JAMES MONROE.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, *July 16, 1811.*

SIR: I have had the honor to receive your note respecting the late encounter between the American frigate the President and His Britannic Majesty's sloop of war the Little Belt.

It is very satisfactory to find that you received the communication which I had the honor to make to you in our first interview, on the subject of your inquiry relative to that unfortunate occurrence, in the amicable spirit it was intended. Although the excitement which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels, even on the coast of the United States, was great, yet no order had been given by the Government for the recovery by force of any citizen so impressed from any British ship of war. The orders given to the commanders of the frigates and other armed vessels of the United States, were for the protection of their coast and of their commerce within the legitimate limits.

I need not repeat to you, sir, the sincere regret of this Government that such an encounter took place, and more especially that it should have produced the unfortunate consequences which attended it. I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, *July 24, 1811.*

SIR: I have had the honor to receive your letter dated on the 16th instant, in answer to mine of the 3d, in which I expressed a desire to have stated in a more formal manner your denial to me of orders having been given to Commodore Rodgers which could, under any construction, authorize that commander to attack any of His Majesty's ships of war in search of any person claimed as an American seaman, and in which I also demanded that an examination should be instituted into that officer's conduct, with a view to suitable reparation to His Majesty for what appears a wanton and unprovoked attack made by the frigate under his command upon His Majesty's sloop of war the Little Belt.

The denial I asked for you have given me; and I beg to assure you, sir, that though I have troubled you with the demand, because the extensiveness of the rumor which had attributed such orders to the American Government had made it my duty so to do, yet I never entertained an idea for one moment that the Government of the United States could have issued such orders,

because they must have been considered as manifestations of direct intentions of hostility, which would have been incompatible with the relations of amity subsisting between America and Great Britain.

On such a point, sir, a simple denial was all I asked, and what I expected to receive. It was, therefore, with pain that I found you had connected it with allusions to other topics calculated to produce irritation, on which, whatever complaints you may have to make to me, I shall be ever ready to receive and forward them for redress to the Commander-in-Chief of His Majesty's naval forces at Halifax, or to His Majesty's Government; but the mentioning of which in your note in answer to mine on a distinct subject of the most serious importance, you will pardon me if I must consider it as matter of regret, especially as you wished me to receive the communication you made me as given in an amicable spirit.

Moreover, from the tenor of the part of your letter in which you have connected the question of impressment with that of an attack on a British ship of war, an inference is forced upon me which you surely could never have meant me to draw, but which, nevertheless, the passage conveys, namely, that *although* the Government of the United States had not given orders for the recovery by force of any American citizen claimed from a British national ship, they still maintain they might have been justified in so doing. The right of searching a ship of war has been so positively disavowed on the part of His Majesty's Government, and so disclaimed by that of America, that I could not have expected any doubts would ever again have been thrown on the matter; and yet the language of your letter, until it is explained, will certainly authorize such doubts, as far as relates to the American Government.

I have no answer at all from you, sir, to my demand for an inquiry being instituted into the conduct of Captain Rodgers. This omission has occasioned to me the more surprise, because, in addition to there appearing to be no cause why the Government of America should decline to listen to so just a demand on my part, there seemed to be every reason why they should, even for their own satisfaction, have desired to clear up the circumstances of his most extraordinary proceeding. I will, indeed, frankly own to you that I did think, on reaching this city, to have found that officer's conduct already, by the spontaneous act of the Government of the United States, undergoing an examination, instead of hearing that he had been sent immediately to sea again, which seemed to denote an approbation of his behaviour; and I thought I could more rely on this being the course the President would have pursued, from a consideration of that which his Majesty's Government had taken in the case of the Chesapeake, when every reparation practicable at the instant the intelligence reached London of that unfortunate event was made to you, sir, promptly and unasked for.

I feel the more regret, sir, at the course taken

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by your Government in this affair, because I have been necessarily obliged in consequence to suspend carrying into execution that part of my instructions by which I was directed immediately on my arrival here to offer such further reparation for the attack on the Chesapeake frigate as would, I am convinced, have proved satisfactory. I had the honor to state to you, in our first interview, that I had such instructions, although I omitted to mention it in my note, because, as you may remember, I expressed to you at the time, it seemed to me the American Government might feel more free to act as the justice of the case required, if the two subjects were kept unconnected; and in this opinion I thought you appeared to concur. I have the honor to be, &c.

AUGUSTUS J. FOSTER.

HON. JAMES MONROE, *Sec. State.*

Mr. Foster to Mr. Monroe.

PHILADELPHIA, *Sept. 4, 1811.*

SIR: I have now, by an express messenger from England, received the commands of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, relative to the late violent aggression committed by the United States frigate the President on His Majesty's ship Little Belt, and I have the honor of communicating to you the enclosed documents which have been transmitted to me by my Government to be laid before that of the United States, comprehending a copy of a letter from Lord James Townshend, commanding officer at Halifax, dated May 30, 1811, (1;) enclosing a statement of the action by the officers of the Little Belt, (2;) the report of the Commissioner of His Majesty's Navy Board at Halifax, in respect to the damage done the Little Belt, (3;) a copy of Rear Admiral Sawyer's letter, (4;) enclosing his instructions to Captain Bingham, (5;) as well as a list of the killed and wounded on board the sloop of war, (6;) and, finally, a copy of the correspondence on the subject which took place between the Marquis Wellesley and Mr. Smith, American Chargé d'Affaires in London, (7, 8;) of that of Captain Bingham's official letter you are already in possession.

In communicating to you, sir, these documents, I am particularly directed to call your attention to the instructions of Admiral Sawyer, which furnish the strongest evidence of the pacific and friendly intentions of His Majesty's Government towards this country. The very pointed manner in which the commander-in-chief on the Halifax station had enjoined Captain Bingham to avoid giving offence to the Government or subjects of the United States is of itself presumptive proof of the truth of that officer's statement, even if there were not such strong evidence as appears from the deposition of the different officers on board His Majesty's ship, as to the action having been commenced by Captain Rodgers.

His Majesty's Government were entitled to expect, as I have had already the honor to observe to you, sir, in my former letter, that the Ameri-

can Government would have manifested a prompt disposition to obviate, by an early disavowal and by just reparation, the necessary tendency of such an event to disturb the friendship subsisting between the two States; and this expectation was the more natural, from the example afforded by His Majesty's Government in the case of the Chesapeake.

Such, however, having not been the case, I am commanded by His Royal Highness to lose no time in communicating to you the papers enclosed, which explain in the fullest manner the circumstances of the transaction, and the very great extent of the outrage committed, by which so many valuable lives were sacrificed, and in demanding the immediate disavowal on the part of the United States of the act of aggression committed against His Majesty's ship, as also in requiring a just reparation of the injury received.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

[The following documents were enclosed in Mr. Foster's note of September 4, 1811.]

No. 1.

HIS MAJESTY'S SHIP *ÆOLUS*,
Halifax Harbor, May 30, 1811.

SIR: As it may be of material consequence that His Majesty's Government should have the earliest information of a circumstance that has taken place on this coast, I have forwarded, and request you will lay before my Lords Commissioners of the Admiralty, the copy of a letter which Captain Bingham, of His Majesty's sloop Little Belt, has sent to Rear Admiral Sawyer, recounting a severe action which took place on the evening of the 16th instant between that ship and the United States' frigate President.

After having considered the whole circumstance, and judging it advisable to procure the strongest documents in my power for their Lordships' information, (the Commander-in-Chief not having returned to Bermuda,) I have caused depositions to be taken of all the commissioned officers of the Little Belt respecting the unpleasant business, which I herewith enclose. I am, sir, &c.

J. TOWNSHEND.

To J. W. CROKER, Esq., *Admiralty.*

No. 2.

The officers of His Majesty's sloop Little Belt. Statement of the action between that sloop and the United States' frigate President, on the evening of the 16th instant, taken before

The Right Honorable Lord James Townshend, Captain of His Majesty's ship *Æolus*, a senior officer at Halifax, Nova Scotia;

Charles John Austin, Esq., Captain of His Majesty's ship *Cleopatra*; and

Alexander Gordon, Esq., Commander of His Majesty's sloop *Rattler*.

Lieutenant Moberly, senior lieutenant, states, that, on the 16th instant, while cruising off the coast of America, Cape Charles bearing west 54 miles, at 11 A. M. saw a strange sail; that she was a lugger, was reported from the mast head,

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on the starboard beam; we then steering S. S. W. the wind aft, or a little on the starboard quarter, on which took in our studding sails, and hauled our wind for her on the starboard tack; shortly after made her out to be a ship. At 2 30 P. M., having then made out the chase to be a frigate, with a commodore's broad pennant flying, being then about six miles distance, and not having answered any of our signals, viz: 275 private signal and our number, concluded her to be the American frigate *United States*; showed our colors, and steered our course south; set studding sail. At 5 o'clock observed the frigate make all sail, and to keep more away for us. At 7, found she was gaining on us fast. Captain Bingham then thinking it best to speak her before dark, shortened sail and hove to, colors up. We then making out her stars in her broad pennant, beat to quarters, and got all clear for action a second time, having beat before at 2 P. M.: double shot-ted and double breached the guns. At 7 50, observed the frigate to have shortened sail to top-sails, topgallantsails, and jib, and standing down, as if with an intention of passing under our stern; wore twice to evade this. Captain Bingham hailed, and was not answered: wore again. The frigate then hove to, close to us, on the larboard beam. Captain Bingham hailed the ship, *ahoy!* which was repeated word for word by the frigate, Captain Bingham asked what ship that was, which was also repeated as before; and, on asking a second time, was answered by a broadside. Captain Bingham was then standing on the mid-ship gun, jumped off, and gave orders to fire, which was done in less than a minute after her first fire; we being quite ready, guns pointed, and continued firing for about an hour, when the frigate ceased firing, and hailed us to know what ship this was. Captain Bingham answered, His Majesty's ship *Little Belt* several times before he understood us. He then asked if our colors were down. No, was Captain Bingham's answer. Captain Bingham then hailed to know what ship that was; and was answered the *United States'* frigate — (the name we could not understand.) In the mean time the frigate had filled, and was standing from us. A short time after lost sight of her; hove to in the night, having no sail to set. At daylight saw a sail to windward; made her out to be the same ship we had engaged. At 6 she bore up for us under easy sail; at 8 she passed within hail; asked permission to send a boat on board, which was granted. Boat came on board, staid ten minutes, then returned; understood the frigate to be the *President*, belonging to the *United States*, Commodore Rodgers. Observed the *President* to fill, and stand on the starboard tack under her topsails.

Lieutenant Thomas Levell states, that, on May 16, 1811, at 11 A. M., saw a strange sail from the mast head, which was reported to be a lugger, having her main topgallantsail hauled fore, and mizzen set. We were then going nearly before the wind, turned the hands up, took in studding sails, and made sail in chase on the starboard tack. At 1 30 observed her to be a frigate, made

the private signal, our number also, 275, neither of which she answered; observed her to have a blue broad pennant at her mast head. At 2 wore ship, and steered our course south; hoisted our colors; observed her to be in chase of us; supposed her to be an American frigate; cleared ship for action. At 5 beat for quarters a second time; double shot-ted the guns, and double breached those that were bad. At 7 30 shortened sail and hove to, as she was coming up with us very fast; hoisted our colors; observed the stars in his broad pennant; wore ship three or four times, to prevent his passing under our stern, which he evidently intended. At 8 hailed her, when on the starboard beam, but received no answer; wore ship. At 8 10 she hauled her foresail up and hove to, within half pistol-shot of our weather beam. Captain Bingham, standing on the gun abaft the larboard gangway, hailed the ship, *ahoy!* which words were repeated. Captain Bingham hailed again, what ship is that? which was again also repeated, word for word, and she immediately fired a broadside. Captain Bingham jumped off the gun and gave orders to fire, which we did instantly, the captains of the guns standing with the lanyards of the locks in their hands, and the guns pointed at her; continued firing about an hour, when she ceased, and hailed us, what ship is that? Captain Bingham replied, His Majesty's ship *Little Belt* several times before he understood us. He then asked what ship that was? They answered, the *United States'* frigate —, (the name we did not understand,) and asked if our colors were down? Captain Bingham answered no. He then filled on the starboard tack. We very soon lost sight of her; continued all night refitting; at daylight observed her lying to windward about eight or ten miles. About 6 she bore down under her topsails and foresail. At 8 he hailed, ship *ahoy!* I'll send a boat on board, if you please, sir. Very well, sir, was Captain Bingham's answer. The boat came on board, and remained about ten minutes or a quarter of an hour, after which he wore, and stood to the westward under his topsails. Latitude 36° 53', longitude 71° 49'; Cape Charles bearing west 50 miles.

Mr. James Franklin, boatswain, states, at half past 6 o'clock observed the frigate coming up under studding sails on both sides; about half past 7 shortened sail and brought to; hoisted the colors; at a quarter before 8 hailed; no answer; wore ship. About two minutes before 8 the ship was hailed; the Captain's words were repeated twice, without making any answer; then he fired a whole broadside; about a minute returned a broadside from us; continued firing for about an hour, and then he ceased firing and hailed, and asked what ship this was, and he was answered by the Captain the *Little Belt*; and he then asked if the colors were down; the answer was, no; and I heard the Captain say they should not come down, and ordered the starboard guns to be manned; then the Captain hailed to know what ship that was; being under the forecastle, wounded, I could not hear the answer. I then came down below, and there was no more firing after.

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Mr. Hinshelwood, purser, states, that, on the 16th instant, at 11 A. M. saw a strange sail; made sail in chase of her; at 1 30 observed her to be a frigate, made the private signal, our number, and 275, neither of which was answered. At 2 made out a commodore's broad pennant, apparently an American; cleared for quarters; observed the frigate to be in chase of us. At 5 beat to quarters a second time; at 7 30 hove to, and hoisted our colors; at 8 hailed her; no answer; wore ship; at 8 10 she hove to, close to windward of us. Captain Bingham, standing on the gun abait the larboard gangway, hailed, ahoy, the ship! which they repeated. Captain Bingham asked, what ship is that? which was also repeated, and immediately gave us a broadside, commencing firing from the midships of the deck. Captain Bingham jumped off the gun and gave orders to fire, which was instantly done; continued firing about an hour; observed the frigate to leave off firing; she hailed at the same time, and asked what ship this was? Captain Bingham answered, His Britannic Majesty's ship Little Belt, six or seven times before they understood. He then asked if our colors were down; to which Captain Bingham answered no, and asked what ship that was; she answered, the United States' ship —, (the name we could not understand.) She then made sail. At daylight observed her to windward; at 6 she bore down; at 8 passed within hail; hailed the ship, and said he would send a boat on board, if Captain Bingham pleased; a boat came on board, and remained about a quarter of an hour. She then made sail to the westward.

Mr. William Turner, surgeon, states, that, when steering to the southward from off New York, on May 16th, 1811, at 11 A. M., a strange sail was reported to the westward, which was immediately given chase to. On nearing, observed her to be a frigate standing to the eastward, with an American broad pennant at her main-topgallant-mast head. We then resumed our course to the southward, and showed the ensign and pennant; stranger observed shortly after to change her course to join us, when the Little Belt made more sail; strange frigate did the same; finding the stranger joined us fast, prepared for action; shortened sail and hove to, some time before sunset; immediately after the Little Belt hove to; the strange frigate shortened sail, coming down very slow. I shortly after went below. At ten minutes past 8 o'clock, P. M. Captain Bingham hailed the stranger twice very loudly, but received no answer. About five minutes after Captain Bingham again hailed, and was answered by the frigate, to what purport I could not distinctly understand. Captain Bingham again hailed twice, and immediately heard the frigate fire, and the whole passed over us. I then distinctly heard Captain Bingham give orders to fire away; we returned our broadside within the space of twenty seconds. The action continued with great vigor for about forty-five minutes, to the best of my judgment.

We, the undersigned, having duly examined the officers herein named, belonging to His Majesty's sloop Little Belt, respecting the attack made

on that ship by the United States' frigate President, have received the above as a true statement of all the occurrences.

In witness whereof, we have hereunto set our hands, on board His Majesty's ship *Æolus*, Halifax harbor, Nova Scotia, the 29th of May, 1811.

J. TOWNSHEND,
CHARLES JOHN AUSTIN,
ALEXANDER GORDON.

No. 3.

Commissioner Inglefield to the Navy Board.

HALIFAX YARD, May 30, 1811.

GENTLEMEN: I acquaint the Board that His Majesty's sloop the Little Belt returned to this port on Sunday last almost a wreck, having, on the 16th instant, off the Chesapeake, had an action which lasted three quarters of an hour, with the American frigate President, one of their heaviest ships, carrying upwards of fifty guns.

Having directed the master shipwright to examine her defects, I received from him the report which is herewith enclosed for the information of the Board, and for the satisfaction of the Lords Commissioners of the Admiralty, in ascertaining the extent of the injury received. In addition to the damages detailed in the builder's report, her sails and rigging are cut to pieces by shot.

I have the honor to be, &c.

T. N. INGLEFIELD.

To the Hon. the NAVY BOARD.

[Enclosure in Commissioner Inglefield's letter to the Navy Board.]

Report and state of the condition of His Majesty's sloop Little Belt.

HALIFAX YARD, May 28, 1811.

The short plank abait the after-port, with top timbers, spirketting and quick work above the spirketting of the larboard side much damaged by shot; the strings and sheer strakes of each side shot away in midships, and abreast of the fore channels of the larboard side; the gunwales and a part of the hammock staunchion boards and rails in midships shot away; several of the fore and main chains and bolts of do. shot away; the top timbers and strings in the way of the fore channels, and iron standards, and larboard main belt shot away; several of the port timbers and lower hanging ports of the larboard side much damaged by shot; part of the waterways, spirketting, and oakwork of the upper deck and timbers in the way of do. much damaged by shot; part of the wales of the larboard side and the plank of the topsides much damaged by shot; a number of shot holes at load water mark and below do; part of the copper damaged; the midship port timber damaged; one beam and several planks of the poop deck much damaged by shot; one pump between decks shot through; the plank under the clamps much damaged; gun room and cabin skylights much damaged; one bumkin wanted; cabins in want of repair; new tin work in the galley wanted; two planks in the upper deck decayed, and want shifting; several shot racks wanting;

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bowsprit shot through in the wake of the gammoning; foremast shot through in two places; mainmast do.; mizzenmast shot through above the cap; mizzen topgallant mast shot away; foreyard damaged by shot on the larboard quarter; cross jack-yard damaged by shot; driver boom decayed; main topsail yard damaged by shot; one main topmast, one fore-topmast, one fore topsail-yard, one fore topgallant mast, one mizzen topgallant mast, one main topsail yard, spare spars in the booms, also, several others, all damaged and shattered by the shot; a swinging boom wanted; the jolly boat and launch much damaged by the shot.

WM. HUGHES, *Master Shipwright.*

J. PARRYIE *Foreman do*

No. 4.

From Rear Admiral Sawyer to J. W. Croker, Esq.

HIS MAJESTY'S SHIP AFRICA,
AT BERMUDA, June 11, 1811.

SIR: Enclosed I transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a letter from Captain Arthur Batt Bingham, commander of His Majesty's sloop Little Belt, received this day from Lord James Townshend, captain of His Majesty's ship *Æolus*, and senior officer at Halifax, by which their Lordships will perceive he was attacked on the evening of May 16 last, when cruising between Cape Henry and Cape Hatteras, by the United States' frigate the President, of forty-four guns, commanded by Commodore Rogers, and that, after a close action of three-quarters of an hour, the American ship made sail from him.

Captain Bingham's modest but full and clear statement, renders any comment from me unnecessary; and I have only to admire the extraordinary bravery and firmness with which himself, his officers, and ship's company supported the honor of the British flag, when opposed to such an immense superiority of force. I have however, deeply to lament the number of valuable British seamen and royal marines, who have been either killed or wounded on this unexpected occasion; a list of whose names is also enclosed, together with a copy of my order, under which Captain Bingham was cruising.

I have the honor to be, &c.

H. SAWYER, *Rear Admiral.*

No. 5.

Rear Admiral Sawyer's instructions to Captain Bingham, of His Majesty's sloop Little Belt. By HERBERT SAWYER, Esq., Rear Admiral of the Red, and Commander-in-Chief of His Majesty's ships and vessels, employed in the river St. Lawrence, along the coast of Nova Scotia, the Islands of Anticosti, Madeline, and St. John, and Cape Breton, the Bay of Findley, and at and about the Island of Bermudas or Sommers' Islands:

You are required and directed to put to sea in His Majesty's sloop under your command, and to proceed without loss of time off Charleston, where you may expect to meet Captain Pechell, in the *Guerriere*, to whom you will deliver the packet you will herewith receive, and follow his orders

for your further proceeding. Should you not meet the *Guerriere* off Charleston, you will stand to the Northward, and use your utmost endeavors to join him off the Capes of Virginia or off New York; and, in the event of not meeting the *Guerriere*, you will cruise as long as your provisions, and water will last, and then repair to Halifax for further orders. You are to pay due regard to protecting the trade of His Majesty's subjects, and the capture or destruction of the ships of the enemy. You are to be particularly careful not to give any just cause of offence to the Government or subjects of the United States of America, to give very particular orders to this effect to the officers you may have occasion to send on board ships under the American flag. You are not to anchor in any of the American ports but in case of absolute necessity; and then put to sea again as soon as possible.

Given under my hand at Bermuda, this 19th of April, 1811.

HERBERT SAWYER.

By command of the Rear Admiral:

H. W. SOMERVILLE.

TO ARTHUR BATT BINGHAM.

Com. of His Majesty's sloop Little Belt.

No. 6.

Return of officers, petty officers, seamen, and marines, killed and wounded on board His Majesty's sloop Little Belt, Arthur Batt Bingham, Esq., commander, in action with the American frigate President, the 16th May, 1811.

Killed.—Mr Samuel Woodward, midshipman; Charles Bennett, captain foretop; Jacob Greaves, carpenter's crew, William Sheppard, gunner's mate; George Wilson, able seaman; Robert Liverage, able seaman; James Grey, ordinary seaman; Robert Harwood, ordinary seaman; John Pardoe, private marine.

Dangerously wounded.—Daniel Kilham, lieutenant marines, died ten hours after the action; Robert Coody, ordinary seaman, died twenty hours after the action; John Randall, able seaman, ditto, ditto; Nicholas Manager, gunner's crew, ditto, ditto.

Severely wounded.—Mr. J. McQueen, acting master; James Dunn, (2) captain maintop; James Lawrence, able seaman; John Richards, able seaman; Thomas Ives, able seaman; Michael Skinners, lieutenant marines; William Fern, boy; David Dowd, marine; William Harold, marine.

Slightly wounded.—Mr. James Franklin, boatswain; Mr. Benjamin Angel, carpenter; Peter McCashell, captain mast; William Andrews, ordinary seaman; William Western, boy; Edward Graham, able seaman; George Delany, able seaman; George Roberts, boy; George Shoard, marine; Daniel Long, marine.

A. B. BINGHAM, *Captain.*

WM. TURNER, *2d Surgeon.*

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Sept. 14, 1811.

SIR: I have had the honor to receive your letter of the 4th instant, respecting the encounter

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between the United States' frigate the President and His Britannic Majesty's ship Little Belt, which I have laid before the President of the United States.

In the first interview which took place between us after your arrival at Washington, I stated explicitly that no instruction had been given to take any seamen from on board a British ship of war, nor any order whatever of a hostile nature. I made the same declaration afterwards, at your request, in a more formal manner; and it is with the same frankness that I now again repeat it.

Such a declaration was deemed proper, in order to obviate misapprehensions which might obstruct any conciliatory and satisfactory propositions with which you might be charged. It was in conformity also with the candor and friendly policy which have been shown by this Government in all its transactions with Great Britain.

If the answer to your former letter was limited to this avowal of hostile intentions on the part of this Government, it need scarcely be remarked, that no further view of the subject could then, nor as yet can, be entered into, on the demand of the British Government, without forgetting an essential preliminary to such a demand.

It might be added that, with the circumstances of the transaction, as officially before this Government, the true ground on which it claimed attention was that of a violent aggression by a British on an American ship, in a situation and manner authorizing the strongest appeal to the British Government for redress. If an instant representation and demand to that effect were not made, it was a proof only that this Government permitted the event of the encounter to temper the feelings and retard the complaint, prompted by the origin and character of it.

It is not seen without surprise that the case of the Chesapeake is cited as an example supporting a demand of reparation in the present case. No other remark will be made than that the fifth year is now elapsing without reparation in that case, although so palpably and even confessedly due to the rights of the United States and the honor of their flag.

In the instruction to Captain Bingham, thus frankly communicated, the President sees a token of amity and conciliation which, if pursued in the extent corresponding with that in which these sentiments are entertained by the United States, must hasten a termination of every controversy which has so long subsisted between the two countries. I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, Oct. 11, 1811.

I have the honor to transmit to you a copy of the proceedings of a court of inquiry, held by order of the President, on the conduct of Commodore Rodgers, in the late encounter between a frigate of the United States, the President, and His Britannic Majesty's ship the Little Belt.

The result of this inquiry, which was conducted in public, in a manner the most fair and impartial, and established by the concurrent testimony of all the officers of the American ship, and of others whom it was proper to summon, cannot, it is presumed, leave a doubt in the mind of any one that Captain Bingham made the attack, and without a justifiable cause.

That Commodore Rodgers pursued a vessel, which had at first pursued him, and hailed her as soon as he approached within suitable distance, are circumstances which can be of no avail to Captain Bingham. The United States have a right to know the national character of the armed ships which hover on their coast, and whether they visit it with friendly or illicit views; it is a right inseparable from the sovereignty of every independent State, and intimately connected with their tranquillity and peace. All nations exercise it, and none with more rigor, at a greater distance from the coast, than Great Britain herself, nor any on more justifiable grounds than the United States. In addition to the considerations which have recommended this precaution to other Powers, it is rendered of more importance to the United States, by the practice of armed vessels from the West Indies in visiting our coast for unauthorized and even piratical purposes. Instances have also occurred, in which the commanders of British ships of war, after impressing seamen from American vessels, have concealed their names, and the names of their ships, whereby an application to their Government for the reparation due for such outrages, with the requisite certainty, is rendered impracticable. For these reasons the conduct of Commodore Rodgers, in approaching the Little Belt, to make the necessary inquiries, and exchange a friendly salute, was strictly correct.

The President, therefore, can regard the act of Captain Bingham no otherwise than as a hostile aggression on the flag of the United States, and he is persuaded that His Britannic Majesty, viewing it in the same light, will bestow on it the attention which it merits. I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Proceedings of a Court of Inquiry convened on board the United States' frigate the President, in the harbor of New York, on the 30th of August, 1811, pursuant to the following warrant:

TO STEPHEN DECATUR, Esq.,

a Captain in the Navy of the U. S.

Whereas it doth appear, by a letter from John Rodgers, Esq., a Captain in the Navy of the United States, and commanding the United States' frigate the President, to me addressed, bearing date off Sandy Hook, May 23, 1811, a copy of which is hereunto annexed, that, on the night of the 16th day of May, 1811, a shot was fired from a vessel of war called the Little or Lille Belt, commanded by a certain A. B. Bingham, Captain, and belonging to the Navy of His Britannic Majesty, at the said frigate the President, without any previous provocation or justifiable cause:

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And whereas the United States are at peace with Great Britain, and wish to maintain the relation of peace inviolate; and whereas this act of Captain Bingham can be considered in no other light than as an act of hostility unprovoked, and an insult offered to the flag of the United States:

Now, therefore, for the more perfect information of the Government of the United States in the premises, I do hereby authorize and require you to convene a Court of Inquiry, to consist of yourself, as President, and the members named below; to hold their sessions at such time and place as may be most suitable and convenient; to call before them all officers and others whose presence may be deemed necessary; to examine minutely into every circumstance stated in the letter of John Rodgers, Esq., annexed; to take all the testimony that can, in any manner or degree, elucidate facts; and to state to me all the facts that shall be disclosed, in order that such proceedings may thereupon be had as may appear to be right and proper.

Of this court you will appoint Nathan Sanford, Esq., the Judge Advocate.

Given under my hand, and the seal of the Navy Department of the United States, this 24th day of July, 1811.

PAUL HAMILTON,
Secretary of the Navy U. S.

CHAS. STEWART, } Esqrs., Captains, U. S. N.
ISAAC CHAUNCEY, }
NATHAN SANFORD, Esq., Judge Advocate.

Present: Com. STEPHEN DECATUR, *President*; Capt. CHARLES STEWART, Capt. ISAAC CHAUNCEY, *members*.

Mr. SANFORD being unable, from the bad state of his health, to act as Judge Advocate, the court, at the request of the Secretary of the Navy, appointed WILLIAM PAULDING, jun., Adjutant General of the State of New York, their Judge Advocate, who thereupon administered to the members thereof the oath prescribed by the articles of war: after which, the President of the court administered to the Judge Advocate the oath by the said articles prescribed.

The court having appointed JOHN HEATH, lieutenant of marines, their Provost Marshal, adjourned to meet at the same place to-morrow morning, at 11 o'clock.

SATURDAY, August 31, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, *members*.

The minutes of the proceedings of yesterday were read, and approved of by the court.

CHARLES LUDLOW, Esq., was sworn by the court as a witness.

Question by the Judge Advocate. Were you on board the United States' frigate the President at the time of the action, on the evening of the 16th of May last, between her and His Britannic Majesty's ship the Lillo or Little Belt.

Answer. Yes.

Question by the Judge Advocate. What was your station on board the said frigate the President, at the time of the action aforesaid?

Answer. Acting Captain, with the rank of master commandant.

Question by the Judge Advocate. When and where did you first discover the Little Belt, and what were the circumstances which occurred from the time you perceived her until the termination of the said action?

Answer. On the 16th day of May last, at meridian, there were discovered from the masthead of the United States' frigate the President several sail in the east, of which the Little Belt must have been one. We were then in seventeen fathoms water, Cape Henry bearing southwest, distant fourteen or fifteen leagues.

At half-past one, P. M., from the deck of the President, we discovered the Little Belt to be a square-rigged vessel, standing for us under a press of sail; we being then upon a wind standing to the southward, and eastward and the Little Belt bearing east by south. About five minutes after, she settled her royals, and showed signals, which she kept flying for several minutes; when Commodore Rodgers gave orders to hoist the colors, and to clear the deck. When the Little Belt hauled down her signals, she wore, and stood to the southward, and set her larboard topgallant studding sails and upper stay-sails.

About a quarter past two, P. M., Commodore Rodgers ordered to beat to quarters; then we kept the President good full. At four, P. M., the wind became very light, the Little Belt then bearing about south-southeast, thirteen miles from us, when we set our upper stay-sails and larboard topgallant studding sails; about this time the Little Belt set her lower studding sails; we were then steering about south. About five, P. M., we set our larboard lower studding sail; the Little Belt bearing about south-southeast; a very light air from north-northeast; we were then going from four to five knots. About six, P. M., the Little Belt set her starboard topgallant studding sails, and hauled up about a point, steering south. At seven, P. M., or a little after, the Little Belt took in her studding sails, and, ten or fifteen minutes after, she hove to on the starboard tack. At half-past seven, P. M., we took in our studding sails, royals, and stay-sails; at which hour, for the first time, I saw colors flying on board the Little Belt, but I could not tell to what nation she belonged. At eight, P. M., we hauled the foresail up, and about a quarter of an hour afterwards Commodore Rodgers gave me orders to take a position on the weather quarter of the Little Belt, at speaking; distance while we were running down for her, she wore several times. At half-past eight, P. M., we rounded her on her weather beam, within speaking distance; she then laying with her maintopsail to the mast. While rounding to, Commodore Rodgers hailed the Little Belt, saying "what ship is that?" to which I did not hear any answer. Some moments after the

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Commodore again hailed the *Little Belt*, saying "what ship is that?" but previously to the second hail, Commodore Rodgers observed to me the ship was forging too fast ahead. While the Commodore was hailing the second time, I was attending to have the jib and mizzen brailed up, and backing the mizzen topsail, and was then standing on the gratings of the after-hatch, looking at the mizzen topsail, with my back to the *Little Belt*. At the time of the second hail of Commodore Rodgers, a gun was fired, but, from my position, I could not see from what ship the shot was fired; but my impression was, from the report of the gun, and not feeling any jar, that it came from the *Little Belt*. Immediately after I heard the report of the said gun, and while in the act of ordering the men from the braces to their quarters, I heard some person sing out "she has fired into us," and instantaneously a gun went off from the President's gun deck; the Commodore was then standing in the gangway. The gun from the President was scarcely fired, when three guns were fired from the *Little Belt*, in quick succession, accompanied with musketry. The Commodore then gave some orders, the purport of which I did not distinctly hear; but the President then commenced firing. After firing from her about two minutes, I remarked to Commodore Rodgers we were firing too high. The Commodore then directed me to go upon the gun-deck, and to give orders to fire low and two round shot. After giving the said orders, I had time to stay and see one gun pointed and fired, and then returned to the hatchway, and repeated the order to fire low; and immediately after was returning to the quarter-deck, when I received an order from the Commodore, by the sailing-master, to cease firing, which order was obeyed. I then gave orders to load the guns and run them out, and then repaired to the quarter-deck. As soon as I got on the quarter-deck, the *Little Belt* recommenced firing, which was returned immediately by the President, and continued a few minutes; when I received an order from Commodore Rodgers to cease firing, as he said some accident had happened to the *Little Belt*, her bow then bearing directly on the President's broadside, and she (the *Little Belt*) apparently ungovernable. It was at this time that Commodore Rodgers remarked that she (the *Little Belt*) must have received some unfortunate shot at the commencement of the action, or that she must be a vessel of force very inferior to what we had taken her for. About this time I observed the gaff of the *Little Belt* was down, mizzen topsail-yard on the cap, and, I believe, the main topsail-yard also. I did not then perceive any colors flying. I then went forward to have the pumps sounded, when I heard some hailing.

After I had attended to my duty, I returned aft, at which time the *Little Belt* was steering to the southward and eastward, and the President was lying to. About nine o'clock, P. M., we took in topgallant sails, and lay to with the mizzen topsail back, and head to the northward and westward. At this time I received orders, to pre-

pare for tacking, when I replied that the main and cross-jack braces were shot away; the Commodore then gave orders to repair damages. About a quarter before eleven o'clock at night, having lost sight of the *Little Belt*, we wore to the southward and eastward, and filled away, the wind being about northeast, and something fresher than it had been; about forty minutes after midnight we backed the mizzen topsail, and lay to during the remainder of the night. At sunrise we discovered the *Little Belt* on our lee-beam, bearing nearly south-southwest, distant about eight miles; we set the foresail, and bore up for her; shortly after our bearing up for her, she took all her sails in except the main topsail, and was employed unbending them. At eight in the morning we hove to under her lee-beam, hailed her, and sent our boat aboard with Lieutenant Creighton; on his return, at nine o'clock, he reported her to be the British ship of war *Little Belt*, commanded by Captain Bingham. We then hoisted our boat up, and stood by the wind to the northward and westward; moderate breezes and clear weather.

Question by a member of the court. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the *Little Belt*?

Answer. Yes.

Question by a member of the court. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. How long do you suppose the firing between the President and the *Little Belt* continued?

Answer. Including the interval previously mentioned, from fourteen to eighteen minutes.

Question by Commodore Rodgers. Was the President at any time during the encounter on fire?

Answer. Not to my knowledge.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the *Little Belt*, at any time during the action?

Answer. No.

Question by Commodore Rodgers. After the *Little Belt*'s fire was silenced, did Commodore Rodgers appear anxious to prevent further injury being done her?

Answer. Yes, both times.

Question by Commodore Rodgers. Were there any other than round or grape shot fired at the *Little Belt*?

Answer. There were none other fired; we had no other than round and grape shot on deck.

Question by Commodore Rodgers. In the position the two ships were at the time Commodore Rodgers gave orders the second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. More injurious than any the *Little Belt* had received; probably it would have sunk her.

The court adjourned to meet again at the

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same place on Monday next at eleven o'clock in the forenoon of that day.

MONDAY, September 2, 1811.

The court met pursuant to adjournment: President, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of yesterday was read and approved by the court.

JOHN ORDE CREIGHTON, Esq., was produced and sworn as a witness.

Question. Were you on board the United States frigate, the President, during the engagement on the night of the 16th day of May last, with His Britannic Majesty's ship, the Lillo, or Little Belt?

Answer. Yes.

Question. Do you hold any, and what, post on board the said frigate, the President?

Answer. Yes, first lieutenant.

Question. Where were you quartered on board the President the night of the action?

Answer. At the fourth division, on the upper deck.

Question. At what time did you discover the Little Belt, and how did she bear?

Answer. At half past one P. M. on the day of the action, I discovered the Little Belt, she then bearing three or four points on our weather bow.

Question. At what time did you discover the Little Belt to be a man of war, and how were both ships steering at that time?

Answer. At half past one, P. M. on the day of the action, I was under an impression the Little Belt was a man of war; we were upon a wind, standing to the southward and eastward, and she before the wind standing for us.

Question. At what time did the frigate, the President, display her colors, and when did the Little Belt show her colors?

Answer. At two o'clock, P. M., when I came up from the gun deck, I saw the colors of the President flying; but I did not observe any colors flying on the Little Belt then, or at any time during the chase.

Question. At what time did the President come within hailing distance of the Little Belt?

Answer. About half past eight, P. M.

Question. Was the first hail from the President or the Little Belt?

Answer. From the President.

Question. Was that hail answered?

Answer. Yes, the Commodore hailed "ship-a-hoy!" the answer from the Little Belt was "halloo!" After which, Commodore Rodgers asked "What ship is that?" and the same question of "What ship is that?" was immediately repeated from the Little Belt. Commodore Rodgers again asked "What ship is that, I say?" to which no answer was given, but I immediately heard the report of a gun, but did not see from which ship it proceeded, but from not feeling any jar, my belief is it came from the Little Belt.

Question. Were you observing the Little Belt at the time you heard the report of the said gun?

Answer. I was not.

Question. At the time you heard the report of the said gun, had any gun been fired from the division you then commanded, or had any provocation been given by Commodore Rodgers to the Captain of the Little Belt.

Answer. No gun had then been fired from my division, neither had any provocation been given by Commodore Rodgers to the Captain of the Little Belt.

Question. During the chase of the Little Belt, or at any time previous to your coming up with her, what were the orders given by Commodore Rodgers with respect to firing?

Answer. The Commodore called me to him; and directed me to see the locks of the guns of the fourth division half cocked, and the aprons laid on; and remarked to me, that he would not, for any consideration, have any accident happen, and ordered me not to fire on the chase until she fired on us, or I received orders to that effect from him.

Question. Did you receive any orders from Commodore Rodgers to fire previously to the Little Belt having fired at the President?

Answer. It was not until after the Little Belt had discharged her broadside at the President that I received orders from Commodore Rodgers to fire.

Question. Were the guns of the Little Belt silenced, and how soon after you received the above orders to fire?

Answer. The guns of the Little Belt were silenced in about five minutes from that time.

Question. After the fire of the Little Belt was silenced, did Commodore Rodgers appear anxious to prevent further injury being done to her?

Answer. Yes; the Commodore made use of every exertion on the occasion to prevent further injury to the Little Belt, and went himself to some of the guns on the quarter deck and ordered the captains of them to cease firing.

Question. Did the fire of the President then cease, and did the Little Belt afterwards recommence firing, and how soon?

Answer. The President then ceased firing, and in about three minutes after the Little Belt recommenced firing; and immediately the President renewed her fire, which lasted about five minutes, when the fire of the Little Belt was completely silenced; and I then heard an officer of the President (I think it was Lieutenant Perry) say, somebody is hailing from the other ship, saying, their colors are down, and that they are in great distress.

Question. As soon as the Little Belt was a second time silenced, did Commodore Rodgers use every exertion to prevent further injury to her? Answer. Yes, sir.

Question. At the time you heard the report of the first gun did you hear any persons on board the President sing out, she has fired into us?

Answer. I heard several persons say "She has fired into us;" meaning the Little Belt.

Question. Did you board the Little Belt the morning after the action? Answer. Yes.

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Question. Did Captain Bingham inform you he took the President for a French ship?

Answer. He did.

Question. What message were you charged with from Commodore Rodgers to Captain Bingham when you boarded the Little Belt the morning after the action?

Answer. Commodore Rodgers ordered me to go on board the Little Belt, to ascertain the name of the ship and her commander, and to express his deep regret at what had taken place, and to say he regretted that the Little Belt had fired first; that had he known her force he would even have received a shot without returning it.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated, off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes.

Question. Are there any circumstances in that letter which you know to be incorrect?

Answer. I know of none.

Question by Commodore Rodgers. Was the President on fire at any time during the encounter with the Little Belt?

Answer. She was not.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action?

Answer. Certainly not.

Question by Commodore Rodgers. Were there any other than round and grape shot fired at the Little Belt?

Answer. Not to my knowledge; from the fourth division, which I commanded, there were none other fired; there were none other than round and grape shot on deck.

Question by Commodore Rodgers. In the position the two ships were at the time Commodore Rodgers gave orders the second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. It is more than probable it would have sunk the Little Belt.

Question by Commodore Rodgers. When you delivered Commodore Rodgers's message to Captain Bingham, did he ask you why the President had fired at all?

Answer. No; he asked me no question of that kind.

Captain HENRY CALDWELL was produced to the court, and sworn as a witness.

Question. Were you on board the United States frigate, the President, during the engagement, on the night of the 16th day of May last, with the Little Belt? Answer. I was.

Question. What is your station on board the President?

Answer. Commandant of marines.

Question. When the President had arrived within hailing distance of the Little Belt, did Commodore Rodgers hail her first?

Answer. Yes.

Question. What answer did Commodore Rodgers receive from the Little Belt?

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Answer. I indistinctly heard a voice from the Little Belt, but I could not tell whether it was an answer to the Commodore's hail, or whether the Little Belt hailed in return.

Question. Were you in a position to observe the Little Belt at the time the first gun was fired?

Answer. I was; I was looking directly at the Little Belt through the starboard gangway.

Question. From which ship was the first gun fired?

Answer. From the Little Belt. I saw the flash of her gun, and immediately heard the report. Commodore Rodgers, turning round to me, asked "What the devil was that?" and I replied, "She has fired into us."

Question. Did Commodore Rodgers hail the Little Belt a second time, and was it then, and before he received any answer from her, that she fired into the President?

Answer. The Commodore hailed a second time, and received no answer; but before he had time to take the trumpet from his mouth the Little Belt fired into the President.

Question. At this time had Commodore Rodgers given any provocation to the commander of the Little Belt?

Answer. None whatever.

Question. What were Commodore Rodgers's orders on board the President before coming up with the Little Belt?

Answer. His orders were not to fire unless fired into, as we were not to be the aggressor on any account.

Question. At what time did the men under your command commence firing at the Little Belt?

Answer. Not until the President had received a second broadside from the Little Belt.

Question. After the President opened her fire upon the Little Belt, was the latter ship silenced, and how soon?

Answer. She was silenced, I think, in four or five minutes.

Question. When the Little Belt was silenced, did Commodore Rodgers appear anxious to prevent further injury being done to her?

Answer. He appeared very anxious to prevent further injury to the Little Belt, and gave immediate orders to cease firing.

Question. Did the President cease firing, and did the Little Belt afterwards renew her fire at the President, and how soon?

Answer. The President ceased firing, and the Little Belt, in about two minutes, renewed the action.

Question. Was the President's fire then renewed, and how long did it continue before the fire of the Little Belt was completely silenced?

Answer. The fire of the President was renewed and continued about six or seven minutes before the guns of the Little Belt were silenced.

Question. When the fire of the Little Belt was a second time silenced, did Commodore Rodgers make every exertion to prevent further injury being done to her?

Answer. He did.

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Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. None at all.

Question by Commodore Rodgers. Was the President at any time on fire during the action?

Answer. She was not.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action?

Answer. No.

The court adjourned to meet at the same place to-morrow morning at eleven o'clock.

TUESDAY, September 3, 1811.

The court met pursuant to adjournment:—Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RAYMOND H. J. PERRY was produced and sworn as a witness.

Question. Were you on board the United States frigate, the President, during the engagement on the night of the 16th of May last with His Britannic Majesty's ship, the Little Belt?

Answer. I was, sir.

Question. Do you hold any, and what, station on board the United States frigate, the President?

Answer. I hold the station of junior lieutenant and signal officer.

Question. At what time were the colors hoisted on board the President?

Answer. About a quarter before two, P. M. on the day of the action.

Question. Were the colors of the President kept flying until she arrived alongside of the Little Belt?

Answer. They were.

Question. On the day of the said action, where were you quartered on board the frigate President?

Answer. On the quarter-deck.

Question. Were you standing near Commodore Rodgers when he first hailed the Little Belt?

Answer. I was standing at his elbow.

Question. Had the Little Belt then hailed the President?

Answer. I did not hear the Little Belt hail the President.

Question. When Commodore Rodgers hailed the Little Belt, was there any reply from her, and, if any, what was the nature of it?

Answer. I did not hear any reply.

Question. Was sufficient time given by Commodore Rodgers for the Little Belt to have answered his hail?

Answer. There was sufficient time given in my opinion.

Question. Did Commodore Rodgers hail the Little Belt the second time, if so, how soon?

Answer. He in a few seconds hailed the Little Belt again.

Question. Did the Commodore receive any answer to his second hail, and, if so, what was its purport?

Answer. I heard no reply from the Little Belt.

Question. At the time of Commodore Rodgers's second hailing, did you hear the report of a gun?

Answer. I did.

Question. Were you in a position to observe the Little Belt at the time the said gun was fired?

Answer. It was; I was standing looking out of the gangway at the Little Belt?

Question. Was the said gun fired from the Little Belt?

Answer. It was; I saw the flash and heard the report.

Question. At this time had any gun been fired from the President, or any provocation whatever been given by the Commodore to the Captain of the Little Belt?

Answer. No gun had at this time been fired by the President, and I know not of any provocation having been given by the Commodore to the Captain of the Little Belt.

Q. Was the latter ship silenced, and how soon?

Answer. The Little Belt was silenced, to the best of my recollection, in five or six minutes.

Question. When the fire of the Little Belt was silenced, did the Commodore appear anxious to prevent further injury being done to her?

Answer. He did appear very much so; orders to that effect were passed from him to every division of guns.

Question. Did the fire of the President hereupon cease? and did the Little Belt renew her fire, and in what time?

Answer. The fire of the President ceased as soon as the orders were received; and in about two minutes after the fire of the Little Belt was renewed.

Question. Did the President then recommence her fire, and was the Little Belt again silenced, and how soon?

Answer. The President then recommenced her fire, and in about six minutes afterward the guns of the Little Belt were silenced.

Question. When the fire of the Little Belt was silenced a second time, did Commodore Rodgers make every exertion to prevent further injury being done to her? Answer. He did, sir.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. I know of none.

Question by Commodore Rodgers. Was the President at any time during the rencounter on fire?

Answer. No.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action? Ans. No.

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Question by Commodore Rodgers. In the position the two ships were at the time I gave orders a second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. Utter destruction to the Little Belt.

Question by Commodore Rodgers. At the time I gave orders to stop the fire of the President the second time, did you hear a hail from the Little Belt, saying "her colors are down?"

Answer. I heard three or four hails at that time from the Little Belt, which I understood to that effect, and so repeated them to the Commodore.

Question by Commodore Rodgers. Has it been the invariable practice on board the President, as well as the usage of the service, to prepare for action before going alongside of a strange vessel of war? Answer. It has.

Question by Commodore Rodgers. Did I, after the fire of the Little Belt was silenced, or at any time, ask her commander if he had struck his colors? if not, be pleased to state to the court what my inquiry was.

Answer. The Commodore did not then, or at any other time, ask the commander of the Little Belt if he had struck his colors; but the Commodore's question was, "did you say you struck your colors?"

Question by Commodore Rodgers. What reply did the commander of the Little Belt make to my question of "did you say you had struck your colors?"

Answer. I could not distinctly hear the reply that was made to that question; but I heard at the time several of our men say, he, the commander of the Little Belt, says "Ay, ay, I am in great distress."

Question by Commodore Rodgers. Were lights displayed from the President during the night after the action, so that her position might have been observed by the Little Belt?

Answer. Yes.

ANDREW L. B. MADISON was produced to the court, and sworn as a witness.

Question. Were you on board the United States' frigate the President during the action, on the night of the 16th day of May last, with His Britannic Majesty's ship the Little Belt?

Answer. Yes.

Question. Do you hold any, and what, station on board the United States' frigate the President?

Answer. Lieutenant of marines.

Question. Where were you quartered on board the frigate President at the time of the action?

Answer. On the gangway.

Question. Where were you standing when Commodore Rodgers hailed the Little Belt?

Answer. I was standing on the combings of the main hatch, on the larboard side.

Question. Had the Little Belt then hailed the President?

Answer. No, sir.

Question. When Commodore Rodgers hailed the Little Belt, was there any reply from her, and, if so, what was the nature of it?

Answer. I heard no reply.

Question. Did Commodore Rodgers hail the Little Belt a second time, and, if so, how soon?

Answer. He did, in fifteen or eighteen seconds.

Question. Was sufficient time given by Commodore Rodgers for the Little Belt to have answered his first hail, before the Commodore hailed her a second time?

Answer. There was.

Question. Did Commodore Rodgers receive any reply to his second hail, and, if any, what was its purport?

Answer. He received no reply, but the Little Belt fired a gun from near her gangway.

Question. Were you in a position to observe the Little Belt at the time she fired that gun?

Answer. Yes; I was looking directly at the Little Belt when she fired; saw the flash, and heard the report.

Question. When the Little Belt fired the said gun, had any gun been previously fired from the frigate President, or any provocation been given by Commodore Rodgers to the commander of the Little Belt?

Answer. No gun had then been fired from the President, nor had any provocation been given by the Commodore to the commander of the Little Belt.

Question. What time elapsed before the President returned the fire of the Little Belt? and how many guns were fired from the President before the Little Belt commenced a general fire?

Answer. The President fired one gun in about six seconds after having received the shot of the Little Belt, and immediately the latter ship fired three guns, and instantly after the rest of her broadside and her musketry.

Question. After the President commenced firing upon the Little Belt, was the latter ship silenced, and in what time?

Answer. The Little Belt was silenced in six or seven minutes after that time, when immediately orders were passed to cease firing.

Question. Did the President then cease firing? and did the Little Belt thereupon renew her fire, and how soon?

Answer. The President ceased her fire, and the Little Belt in about two or three minutes after renewed her fire.

Question. Did the President then recommence her fire? and was the Little Belt again silenced, and how soon?

Answer. The President renewed her fire, which continued four or five minutes, when the guns of the Little Belt were silenced, and orders were immediately passed to me to cease firing.

Question. At the several times when the guns of the Little Belt were silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. Yes; orders were immediately passed to cease firing.

Question. Have you seen Commodore Rodgers's letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have, sir.

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Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. None.

Question by Commodore Rodgers. Was the President at any time on fire, or did she sheer off during the action, with a view to avoid the Little Belt?

Answer. The President was not at any time on fire, nor did she sheer off during the action, with a view to avoid the Little Belt.

Captain CALDWELL of the marines was again produced to the court, and examined.

Question. What time elapsed before the President returned the fire of the Little Belt? and were any, and how many, guns fired from the President, before the Little Belt commenced a general fire?

Answer. Five or six seconds elapsed before the President returned the fire of the Little Belt, by firing one gun, and immediately the latter ship fired three guns, and instantly the rest of her broadside and her musketry.

The court adjourned to meet at the same place to-morrow morning, at 11 o'clock.

WEDNESDAY, Sept. 4, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

JACOB MULL was produced to the court and sworn as a witness.

Question. Were you on board of the United States' frigate the President during the action on the night of the 16th day of May last with His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the President?

Answer. The station of sailing-master.

Question. On the night of the 16th day of May last where were you quartered on board the said frigate the President?

Answer. On the quarter-deck.

Question. When within hailing distance, did Commodore Rodgers hail the Little Belt?

Answer. Yes, sir.

Question. Had the President at that time been hailed by the Little Belt?

Answer. No, sir.

Question. Did Commodore Rogers hail the Little Belt again, and was sufficient time given for her to answer him before his second hail?

Answer. The Commodore hailed the Little Belt a second time, sufficient time having been given to receive an answer from the Little Belt before the Commodore's second hail.

Question. Was any, and what, answer given by the commander of the Little Belt to either hail of Commodore Rodgers?

Answer. There was an answer given, I think. To the first hail of the Commodore, the commander of the Little Belt said halloo! to the second hail of Commodore Rodgers there was no answer,

but instantly the Little Belt fired a shot, which I thought struck the frigate President.

Question. were you looking at the Little Belt at the time she fired that shot?

Answer. I was, but could not see her hull.

Question. At the time the Little Belt fired the said gun, had any gun been fired from the President, or any provocation whatever been given by Commodore Rodgers to the Captain of the Little Belt.

Answer. No gun had been fired from the President, nor had any provocation whatever been given by Commodore Rodgers to the Captain of the Little Belt.

Question. What time elapsed before the President returned the first gun of the Little Belt? and were there any, and how many, guns fired from the President before the Little Belt commenced a general fire?

Answer. Perhaps three or four seconds elapsed before the President returned the said gun; there was only one gun fired from the President before the Little Belt commenced a general fire.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. None, sir.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I thought she was a large sized frigate, until we came in hail of her, the next day.

Question by Commodore Rodgers. What was the duration of the action? and was there any cessation, and how long?

Answer. The action continued fourteen or fifteen minutes, during which time there was a cessation of the fire of both ships, of about three minutes.

Question by Commodore Rodgers. When the Little Belt's fire was finally silenced, could her guns have been brought to bear, had her commander wished to fire again?

Answer. They could.

Question by Commodore Rodgers. In the position the two ships were at the time I gave orders a second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. I think it would have sunk the Little Belt.

Lieutenant JOHN ORDE CREIGHTON was again produced to the court and examined.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I was under the impression that the Little Belt was a frigate, until doubts were excited

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in my mind by the feeble resistance she made in the action; and on the following morning I was still of opinion that she was a frigate when we first discovered her, and until we got so near her as to be certain of her force.

Question by Commodore Rodgers. Did I ask you, immediately on your return from the Little Belt, if her wheel had not been carried away?

Answer. Yes, sir, the Commodore asked me that question.

Question by Commodore Rodgers. From the Little Belt's manœuvres the night of the encounter, did you suppose her wheel had been shot away?

Answer. I think there was great want of conduct on board the Little Belt; she did not make that defence which a ship of her force ought to have made.

Question by Commodore Rodgers. Did Captain Bingham inform you that he had not seen our colors?

Answer. Captain Bingham said to me the President's colors had not been hoisted; I replied to him they had been hoisted from the moment we discovered him to be a ship of war; he then said your mizzen topsail would prevent me from seeing it; to which I replied, he must have seen our pennant, as it showed distinctly above the royals; he then said, yes, I recollect my officers, who are better acquainted here than I am, told me you were a burgee.

Question by Commodore Rodgers. Is it the usage of the service to prepare for action before going alongside of a strange vessel of war?

Answer. Yes, sir.

The court adjourned to meet to-morrow morning at 11 o'clock, at the same place.

THURSDAY, Sept. 5, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

JOSEPH SMITH was produced to the court and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was on the night of that day on board the said frigate the President, and there was then an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station of board the said frigate the President? and where were you quartered at the time of the said action?

Answer. I am a midshipman, acting as master's mate on board the President, and at the time of the said action commanded the sub-division of the fourth division of guns on the fore-castle.

Question. On the night of the said action, did you hear Commodore Rodgers hail the Little

Belt, and at what hour, and was there any, and what, reply given to the Commodore?

Answer. At eight o'clock on the night of the said action, or nearly at that hour, I heard Commodore Rodgers hail the Little Belt; to which I did not hear any reply.

Question. Did Commodore Rodgers hail the Little Belt a second time, and how soon, and was there any, and what, reply from her?

Answer. The Commodore hailed the Little Belt a second time in about five seconds, to which I heard no reply.

Question. Did you, at the time of Commodore Rodgers's second hail, or at any other, and what time, hear the report of a gun?

Answer. I saw the flash and heard the report of a gun almost immediately after Commodore Rodgers's second hail.

Question. When you saw the flash and heard the report of the said gun, were you in a position to observe the Little Belt?

Answer. Yes, sir, I was standing on the side of the after gun on the fore-castle, looking directly at the Little Belt.

Question. Was the said gun fired from the Little Belt? Answer. It was, sir.

Question. When the Little Belt fired the said gun, had any gun been fired by the President, or any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. At that time there had not any gun been fired from the President, nor had any provocation that I know of been given by the Commodore to the Captain of the Little Belt.

Question. Did the President return the fire of the Little Belt, and how soon? and did the President fire one or more guns in return?

Answer. The President returned the fire of the Little Belt, in four or five seconds, by firing one gun only.

Question. Did the Little Belt thereupon immediately commence a general fire.

Answer. I heard three guns fired from the Little Belt immediately after the President had fired the said gun.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I took her to be a frigate.

Question by Commodore Rodgers. What was the duration of the action, and was there any cessation, and how long?

Answer. I suppose the action to have lasted from twelve to fourteen minutes; there was a cessation of two and a half or three minutes.

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Question by Commodore Rodgers. Did you twice, during the rencounter, receive orders to cease firing?

Answer. Yes, sir.

Question by Commodore Rodgers. At the several times the said orders to cease firing were passed to you, particularly the last, did Commodore Rodgers make every exertion to prevent further injury being done to the *Little Belt*?

Answer. Yes, both times; I received the last time the orders from three different officers to cease firing.

HENRY DENISON was produced to the court and sworn as a witness.

Question. Were you on board the *United States*' frigate the *President* on the night of the 16th day of May last, and was there then an engagement between her and his *Britannic Majesty's* ship the *Little Belt*?

Answer. I was then on board the said frigate the *President*, when an action took place between her and a vessel which afterwards proved to be the *Little Belt*.

Question. Do you hold any, and what, station on board the said frigate the *President*, and where were you quartered at the time of the action aforesaid?

Answer. I am acting chaplain, and at the time of the said action was quartered on the quarter-deck.

Question. On the night of the said action, did you hear Commodore Rodgers, and at what hour, hail the *Little Belt*, and how often? and was there any, and what, answer given by her?

Answer. About a quarter past eight o'clock on the night of the said action, when within about seventy or eighty yards of the *Little Belt*, I heard Commodore Rodgers hail her, and ask, "what ship is that?" to which inquiry the *Little Belt* in about two seconds replied by putting the same question of "what ship is that?" after a short interval the Commodore repeated his first question of "what ship is that?" to which no reply was given.

Question. Did you, at the time of Commodore Rodgers's second inquiry of "what ship is that?" or at any other, and what, time, hear the report of a gun?

Answer. Directly after Commodore Rodgers's second hail I heard the report of a gun.

Question. When you heard the report of the said gun, were you in a position to observe the *Little Belt*?

Answer. I was not.

Question. Was the said gun fired from the *Little Belt*?

Answer. From my position just at that moment, I could not see any flash, but from not then feeling any jar of the *President*, my belief was, that the said gun was fired from the *Little Belt*.

Question. At that time, had any gun been fired from the *President*, or any provocation been given by Commodore Rodgers to the Captain of the *Little Belt*?

Answer. No gun had been fired from the *President*, neither, in my opinion, had any provocation

been given by Commodore Rodgers to the Captain of the *Little Belt*, as no other conversation had passed between them than what I have mentioned took place at the several times of hailing.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the *Little Belt*?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. Not any.

MICHAEL ROBERTS was produced to the court, and sworn as a witness.

Question. Were you on board the *United States*' frigate the *President* on the night of the 16th day of May last, and was there then any engagement between her and His *Britannic Majesty's* ship the *Little Belt*? Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the *President*, and where were you quartered at the time of the said action?

Answer. I am boatswain of the *President*, and was at the time of the said action quartered on the fore-castle.

Question. When within hailing distance, did either, and which, ship hail? and from which of the said ships did the first hail proceed?

Answer. When the *President* and the *Little Belt* were within hailing distance of each other, Commodore Rodgers first hailed the latter ship.

Question. Did you hear, and at what time, the report of a gun? and were you then observing the *Little Belt*, and did it proceed from her?

Answer. To the best of my recollection, at the time Commodore Rodgers hailed the *Little Belt*, I was standing on the larboard side of the fore-castle belaying the weather jib sheet, and then saw the flash; and instantly turning my head towards the *Little Belt*, I heard the report of a gun, and saw that it proceeded from her.

Question. When you saw the flash and heard the report of the said gun, had there been any gun fired from the *President*?

Answer. No, sir.

Question. At that time had Commodore Rodgers given any provocation whatever to the captain of the *Little Belt*?

Answer. None that I heard or saw.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d of May last, relative to the action with the *Little Belt*?

Answer. No, sir.

The court adjourned to meet at the same place to-morrow morning at 11 o'clock.

FRIDAY, Sept. 6, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RICHARD CARSON was produced to the court and sworn as a witness.

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Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an engagement between her and His Majesty's ship the Little Belt? Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the President, and at the time of the said action was quartered on the forecabin and gangways.

Question. Did you, on the night of the said action, hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what, reply made to the Commodore?

Answer. At about eight o'clock on the night of the aforesaid action, I heard Commodore Rodgers hail the Little Belt, by asking "what ship is that?" to which inquiry the Little Belt replied by repeating the question of "what ship is that?" In a short time the Commodore hailed the Little Belt again, asking "what ship is that?" to which question she replied with a shot.

Question. Were you looking at the Little Belt when she fired the said shot, and did you see the flash, and hear the report of the gun which she then fired?

Answer. I was then looking at the Little Belt, and saw the flash, and instantly heard the report of the gun which she then fired.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. There had then been no gun fired from the President, nor had any conversation other than the hailing I have previously mentioned passed between Commodore Rodgers and the Captain of the Little Belt.

Question. Was the gun which had been fired from the Little Belt returned by the President, and how soon? and did she fire one or more guns in return?

Answer. The President immediately fired one gun only in return.

Question. Did the Little Belt, as soon as the gun she fired had been answered by the President, commence a general fire?

Answer. She did.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

MATTHEW C. PERRY was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an engagement between her and His Britannic Majesty's ship the Little Belt?

Answer. I was then on board the said frigate the President, when there was an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you at the time of the said action?

Answer. I am a midshipman on board the said frigate the President, and at the time of the said action was stationed on the quarter-deck.

Question. On the night of the said action did you hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what, reply given to the Commodore?

Answer. Commodore Rodgers, at about eight o'clock on the night of the said action, hailed the Little Belt, and asked "what ship is that?" to which the Captain of the Little Belt replied by echoing the Commodore's previous question, of "what ship is that?" Immediately after, Commodore Rodgers again hailed the Little Belt by repeating his former inquiry of "what ship is that?" to which there was no reply, but instantaneously the Little Belt fired a gun.

Question. At the time the Little Belt fired the said gun, had there been any gun fired from the President, or any provocation given by Commodore Rodgers to the commander of the Little Belt?

Answer. When the Little Belt fired the said gun, the President had not fired at all; nor had any provocation been given by Commodore Rodgers to the Captain of the Little Belt.

Question. Was the gun, which had been first fired from the Little Belt, answered by the President, and how soon? and did she fire one, or a greater number of guns in return?

Answer. The President, in from five to seven seconds, returned the said gun fired from the Little Belt, by firing one gun only.

Question. Did the Little Belt, immediately after the gun fired from her had been answered by the President commence a general fire?

Answer. She did.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect.

Answer. There are none.

SILAS DUNCAN was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was on that night on board the said frigate the President, and there was then an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the said frigate, and was at the time of the said action quartered in the foretop.

Question. On the night of the said action, did

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you hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what answer, given to the Commodore?

Answer. Immediately before the action commenced between the President and the Little Belt, I heard Commodore Rodgers hail the latter by asking "what ship is that? when, I think, the commander of the Little Belt replied by repeating the Commodore's previous question. In a very short time afterwards Commodore Rodgers repeated his question, of "what ship is that?" to which I did not hear any reply.

Question. Did you, at the time of Commodore Rodgers's second hail, or at any other, and what time, hear the report of a gun, and did it proceed from the President or the Little Belt.

Answer. Immediately after Commodore Rodgers's second hail, I heard the report of two guns in quick succession, but, from my position at the moment, I could not ascertain from which ship the report proceeded; but my impression was, that the gun I first heard was fired from the Little Belt, and that the President had fired a shot in return. At the time I heard the report of the first gun, the foretopsail being between me and the Little Belt, I could not see her.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances related in that letter which you know to be incorrect?

Answer. I know of none.

JOHN H. CLACK was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and the Little Belt?

Answer. I was at that time on board the said frigate the President, when there was an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the said frigate, and was stationed at the time of the said action in the mizen top.

Question. When the President came within hail of the Little Belt, did you hear Commodore Rodgers hail her, and how often?

Answer. When the President came within hailing distance of the Little Belt, I heard the Commodore hail her twice.

Question. Was there any, and what reply made from the Little Belt?

Answer. There was no reply from the Little Belt; but to the Commodore's first hail the Little Belt hailed in return.

Question. Were you observing the Little Belt when the first gun was fired?

Answer. I could not see her when I heard the report of the first gun.

Question. Which ship fired the first gun?

Answer. I cannot positively say; the impres-

sion on my mind was, the Little Belt fired the first gun.

Question. Were there any, and what, circumstances which induced you to believe that the Little Belt fired the first gun?

Answer. There were several; at the time the first gun was fired I did not feel any jar, but when, immediately after, I saw the President fire a gun, I very sensibly felt the jar.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. There are none.

The court adjourned to meet to-morrow at the same place, at 11 o'clock.

SATURDAY, Sept. 11, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

THOMAS GAMBLE was sworn as a witness.

Question. Were you, on the night of the 16th day of May last, on board the United States' frigate the President, and was there then an action between her and His Britannic Majesty's ship the Little Belt.

Answer. I was then on board the said frigate the President, when there was an action between her and the said ship the Little Belt.

Question. What was your station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I was second lieutenant of the said frigate, commanding the first division of guns.

Question. When the said frigate came within hailing distance of the Little Belt, did Commodore Rodgers hail her?

Answer. When within hailing distance, I heard the Commodore hail the Little Belt very distinctly.

Question. Was there any, and what, reply to Commodore Rodgers's hail from the Little Belt?

Answer. To the first hail of "ship ahoy!" of the Commodore, the answer of the Little Belt was "halloo!" whereupon, Commodore Rodgers asked "what ship is that?" to which inquiry the Little Belt replied by repeating the same question, of "what ship is that?" In the course of four or five seconds after, the Commodore again inquired "what ship is that?" to which there was no reply from the Little Belt.

Question. Was a gun fired at this time, and were you observing the Little Belt, and from whence did the fire proceed?

Answer. At the time of Commodore Rodgers's first hail, of "what ship is that?" I was looking out of a port at the Little Belt; and from her repetition of the Commodore's previous question, I was under an apprehension that some difficulty

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might occur, and withdrew from the port; I then heard Commodore Rodgers hail the Little Belt again; immediately after which I heard the report of a gun, which I am confident proceeded from the Little Belt, as the report appeared distant and I felt no concussion.

Question. When you heard the report of the said gun, had a gun been fired from the said frigate the President, or had any provocation been given by Commodore Rodgers to the commander of the said ship the Little Belt?

Answer. At that time not a gun had been fired by the President, nor had any provocation whatever been given by the Commodore to the commander of the Little Belt.

Question. Are you sure that the first gun was not fired from the division that you commanded in the aforesaid action?

Answer. I am certain it was not. It was not possible that a gun could have been fired from the division I commanded, without my knowledge.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What were Commodore Rodgers's orders on board the frigate President, before coming up with the Little Belt?

Answer. The Commodore's orders were, at this time, to be very particular not to fire a gun unless the chase fired first.

Question by Commodore Rodgers. What description of shot were fired from your division during the said encounter with the Little Belt?

Answer. From the division I then commanded, there was nothing but round and grape shot fired.

Question by Commodore Rodgers. Did you hear any hail from the Little Belt, previously to Commodore Rodgers having hailed her, and were you in a situation to hear if there had been any previous hail from that ship?

Answer. My situation was such, that I must have heard if the Little Belt had first hailed the President; and I feel positive the first hail proceeded from Commodore Rodgers.

Question by Commodore Rodgers. Was the President at any time on fire during the encounter with the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. Did the President at any time during the encounter with the Little Belt sheer off with a view to avoid her?

Answer. She did not.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what, in your opinion, would have been the effect of another broadside from the President?

Answer. It is my opinion it would have sunk the Little Belt.

Question by Commodore Rodgers. As soon as

the fire of the Little Belt was finally silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. The Commodore did; I heard him on the gun-deck, about the main hatch, ordering to cease firing.

Question by Commodore Rodgers. Did you see any colors hoisted on board the Little Belt during the chase, and were you then in a situation to have seen them had she displayed any?

Answer. I was in a situation to have seen the Little Belt's colors had she displayed any. I was sitting in the bridle port looking at her with a spy-glass the greater part of the chase, and did not observe any colors displayed by her.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt from the time you first observed her until the termination of the firing, or, indeed, until her force was discovered the next day?

Answer. I was under the impression that she was a frigate of thirty-six or thirty-eight guns until the morning after the action.

ALEXANDER JAMES DALLAS was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was at that time third lieutenant of the said frigate, commanding the second division of her guns.

Question. When within hailing distance, did you hear Commodore Rodgers hail the Little Belt? Answer. Yes, sir.

Question. Was there any, and what, reply thereto from the Little Belt?

Answer. Halloo, was the reply thereto from the Little Belt.

Question. Did Commodore Rodgers thereupon ask "what ship is that?"

Answer. Yes, sir.

Question. Was there any, and what, reply to that question from the Little Belt?

Answer. The Commodore's question of "what ship is that?" was reiterated from the Little Belt.

Question. Did Commodore Rodgers again hail "what ship is that?" and was there any, and what, reply thereto from the Little Belt?

Answer. I heard the Commodore again say something, the tendency of which I did not distinctly comprehend, but immediately after a gun was fired from the Little Belt.

Question. Where were you when the Little Belt fired that gun, and were you then looking at her, and did you see the flash and hear the report of the said gun?

Answer. I was leaning or sitting, I do not know which, looking at the Little Belt out of the first port forward of the starboard gangway, and saw a flash from her, and heard two reports.

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Question. When you saw the flash and heard the reports aforesaid, had a gun been fired from the President, or had any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. No gun had been fired by the President, nor had any provocation been given by the Commodore to the commander of the Little Belt.

Question. Was the gun you saw fired from the Little Belt returned by the President, and from which division, and how soon, and did the President fire one or more guns in return?

Answer. As soon as I perceived the flash and heard the reports from the Little Belt, I got in from the port and fired a gun from the second division, which I then commanded. The time between seeing the flash and hearing the reports and firing the gun from said division, I suppose to have been four or five seconds. The President fired only one gun in return.

Question. Did the Little Belt thereupon immediately commence a general fire?

Answer. Yes, sir.

Question. What were Commodore Rodgers's orders on board the President before coming up with the Little Belt?

Answer. They were to fire on no account without orders from the quarter-deck, or unless she fired first.

Question. Had you received any order other than the above orders?

Answer. I had not then received any other than the above orders.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. I heard no hail from the Little Belt previously to the Commodore's having hailed her.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. There are none, sir.

Question by Commodore Rodgers. What description of shot were fired from the division you commanded during the engagement?

Answer. Round and grape shot, and none other.

Question by Commodore Rodgers. Was the President on fire at any time during the said action?

Answer. No, sir.

Question by Commodore Rodgers. Did the President at any time during the action sheer off with a view to avoid the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what, in your opinion, would have been the effect of another broadside from the President?

Answer. Another broadside from the President would in all probability have sunk the Little Belt.

Question by Commodore Rodgers. As soon as

the fire of the Little Belt was finally silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. He did. The Commodore came down on the gun-deck and gave orders to cease firing.

The court adjourned, to meet on Monday next at the same place, at 11 o'clock in the morning.

MONDAY, Sept. 9, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of Saturday last were read and approved.

JOHN M. FUNK was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then fourth lieutenant of the said frigate, commanding the third division, and was quartered on the gun-deck.

Question. When within hailing distance, did you hear Commodore Rodgers hail the Little Belt?

Answer. Yes, sir, I did.

Question. Was there any, and what, answer thereto from the Little Belt?

Answer. There was a reply thereto from the Little Belt, but I could not distinctly understand what was said.

Question. Did Commodore Rodgers hail the Little Belt again, and how soon, and was there any, and what, reply thereto from her?

Answer. After sufficient time had elapsed for an answer from the Little Belt, the Commodore hailed her again, to which I did not hear any reply.

Question. Was a gun fired from the Little Belt, and at what time?

Answer. Immediately after the Commodore again hailed the Little Belt, I heard the report of a gun, which I am confident proceeded from her, as the report came from that direction, and I felt no jar. I was not then looking at the Little Belt.

Question. When you heard the report of the said gun, had any gun been fired from the President, or had any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. Not any gun had been fired from the President, nor had any provocation then been given by the Commodore to the commander of the Little Belt.

Question. Are you certain the first gun was not fired from the division you commanded in the said action?

Answer. Yes, sir, I am certain it was not.

Question. Was the gun which had been fired from the Little Belt returned by the President,

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and how soon? and did the President fire one or more guns in return?

Answer. It was returned by a single gun from the President in five or six seconds.

Question. Did the Little Belt thereupon commence a general fire?

Answer. Yes, sir.

Question. Did you receive any, and what, orders from Commodore Rodgers, before coming up with the Little Belt?

Answer. The orders I received, previously to coming up with the Little Belt, were not to fire without orders from the quarter-deck, unless she fired first.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. No, sir.

Question. Have you seen Commodore Rodgers' official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt? Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What description of shot were fired, during the action, from the division you then commanded?

Answer. No other than round and grape shot.

Question by Commodore Rodgers. Was the President on fire at any time during the said action?

Answer. Not to my knowledge.

Question by Commodore Rodgers. Did the President, at any time during the said action, sheer off with a view to avoid the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what, in your opinion, would have been the effect of another broadside from the President?

Answer. I think, sir, it would have sunk the Little Belt.

Question by Commodore Rodgers. As soon as the fire of the Little Belt was silenced, did Commodore Rodgers exert himself to prevent further injury being done to the Little Belt?

Answer. He did, sir.

PETER GAMBLE was produced, and sworn as a witness.

Question. Were you on board the United States' frigate, the President, on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship, the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate, the President, at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered on the gun-deck, in the second division.

Question. Did the Little Belt commence the said action, by firing the first gun?

Answer. At the time the first gun was fired, I was not looking at the Little Belt; but, in consequence of the report from the direction in which she then was, and from my not feeling any jar at that time, I am confident she fired the first gun.

Question. When you heard the report of the said gun, had any gun been fired from the division in which you were then stationed, or had any provocation been given by Commodore Rodgers to the commander of the Little Belt?

Answer. At that time no gun had been fired from the division in which I was then stationed, nor had any provocation, that I know of, been given by Commodore Rodgers to the commander of the Little Belt.

Question. Have you seen Commodore Rodgers' official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. I do not know that any circumstances therein stated are incorrect.

EDWARD BABBIT was produced, and sworn as a witness.

Question. Were you on board the United States' frigate, the President, on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship, the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate, the President, at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered in the third division, on the gun-deck.

Question. Did the Little Belt commence the said action by firing the first gun? and were you then looking at her?

Answer. Yes, sir; I was looking at her when she fired the first gun, and saw the flash, and heard the report of it.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. It was.

Question. Have you seen Commodore Rodgers' official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt?

Answer. I have heard it read.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Lieutenant JOHN ORDE CREIGHTON was produced, and re-examined.

Question by a member of the court. During the night after the affair between the President and the Little Belt, had the President lights hoisted?

Answer. She had.

JACOB MULL was produced, and re-examined.

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Question. Was there any, and what, injuries sustained by the President, in the affair between her and the Little Belt, on the night of the 16th day of May last?

Answer. The President, in that affair, sustained none other than the injuries which follow: One hoy was wounded; one shot struck her mainmast; another shot struck her foremast; two of the four, two of the main, and one of the mizzen shrouds, the starboard maintop-mast, breast back-stay, and some of the running rigging, were cut away, and several shot went through the sails.

Question. Did any shot from the Little Belt strike the hull of the President in the said affair?

Answer. Not one of any description.

EDWARD RUTLEDGE SHUBRICK was produced, and sworn as a witness.

Question. Were you on board the United States' frigate, the President, on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship, the Little Belt?

Answer. Yes.

Question. What was your station, and where were you quartered, on board the said frigate, the President, at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was stationed forward on the gun-deck, in the first division.

Question. Did the Little Belt commence the said action, by firing the first gun? and were you then looking at her? and did you see the flash, and hear the report of it?

Answer. She did commence the action, by firing the first gun. I was looking at her through one of the ports, and saw the flash, and heard the report of it.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. The Little Belt fired the first gun, without any previous provocation or justifiable cause.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. No, sir; none.

Question. Have you seen Commodore Rodgers' official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. No, sir.

The court adjourned, to meet at the same place to-morrow morning, at 11 o'clock.

TUESDAY, September 10, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

PHILIP DICKERSON SPENCER was produced, and sworn as a witness.

Question. Were you on board the United States' frigate, the President, on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship, the Little Belt?

Answer. I was then on board the said frigate, when there was an action between her and the said ship, the Little Belt.

Question. What was your station, and where were you quartered, on board the said frigate, the President, at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered in the third division on the gun-deck.

Question. Did the Little Belt commence the said action, by firing the first gun? and were you looking at her when you heard the report of the first gun which was then fired?

Answer. At the time the first gun was fired I was not looking at the Little Belt, but, from the direction in which the report came, and from not then feeling any jar, I am confident the first gun was fired from her.

Question. When you heard the report of the said gun, had any gun been fired from the division in which you were quartered, or had any previous provocation been given, to the commander of the Little Belt?

Answer. No gun had then been fired from the division in which I was quartered; neither had any previous provocation, to my knowledge, been given to the Captain of the Little Belt.

Question. Have you seen Commodore Rodgers' official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt? Answer. I have, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. Not any.

Question by Commodore Rodgers. Did you hear any hail from the Little Belt previously to Commodore Rogers having hailed her?

Answer. I did not.

BREASTED BARNS was produced, and sworn as a witness.

Question. Were you on board the United States' frigate, the President, on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship, the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate, the President?

Answer. I was then carpenter of the said frigate, and was quartered on the gun-deck, to attend the pumps.

Question. Did the Little Belt commence the said action, by firing the first gun?

Answer. Yes, sir; she fired the first gun.

Question. Were you looking at the Little Belt when she fired the first gun? and did you see the flash, and hear the report of it?

Relations with Great Britain.

Answer. I was standing forward of the mainmast, looking through a port at her, when I saw the flash, and heard the report of the gun which she then fired.

Question. When you saw the Little Belt fire the said gun, had any gun been previously fired from the President? or had any provocation been given to the commander of the Little Belt?

Answer. At that time, the President had not fired any gun, nor had any previous provocation been given to the commander of the Little Belt that I saw or heard.

Question. Were there any, and what, damages, sustained by the said frigate, the President, in her hull and spars, in the affair between her and the said ship, the Little Belt, on the night of the 16th of May, 1811?

Answer. There was not a single shot of any description that struck the hull of the President, but she received one shot in her mainmast, and one in her foremast, during that affair.

JOHN NIESS, ELIPHALET CARR, JOHN JONES, JAMES VEITCH, and TROPHEMUS DAVIS, were produced, and sworn as witnesses.

JOHN NIESS was examined.

Question. Were you on board the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the President at the time of said action?

Answer. I was captain of the first gun of the first division on the gun-deck.

Question. Did the Little Belt commence the said action, by firing the first gun? and were you then looking at her?

Answer. She did, sir, fire the first gun. I was then looking at her out of the port, and saw the flash, and heard the report of it.

ELIPHALET CARR was interrogated.

Question. Were you on board of the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. Where were you quartered, and what was your station, on board the President at the time of the said action?

Answer. I was captain of, and quartered at, gun No. 2 in the first division on the gun-deck.

Question. Did the Little Belt commence the action, by firing the first gun? and were you then looking at her?

Answer. She fired the first gun. I was then looking at her, and saw the flash, and heard the report of it.

JOHN JONES was examined.

Question. Were you on board the United States' frigate the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. At what gun were you then quartered, and what was your station at the gun?

Answer. I was quartered at the gun No. 3 of the first division on the gun-deck, and was sail-trimmer.

Question. Are the persons now on board the President who, at the time of the said action, were first and second captains of gun No. 3 of the first division?

Answer. They are not. Their term of service having expired, they have been discharged.

Question. Did the President or Little Belt fire the first gun?

Answer. The Little Belt fired first. I was looking at her out of a port, and saw the flash, and drew my head in, and heard the report of it.

JAMES VEITCH was produced and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

A. I was captain of gun No. 4 of the first division, and was quartered at that gun.

Question. Did the President or the Little Belt fire the first gun?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash, and heard the report of the gun.

TROPHEMUS DAVIS, having been sworn, was produced and examined.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then quartered at gun No. 5 of the first division of the gun-deck, and was captain of the same.

Question. Did the President or Little Belt fire the first gun?

Answer. The Little Belt. I was looking at her out of a port, and saw her fire it.

JOHN LAYFIELD, BENJAMIN BROWN, EDWARD FITZGERALD, JAMES CORNWALL, and JOHN FITCH, were produced and sworn as witnesses.

JOHN LAYFIELD was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of, and quartered at, gun No. 6 of the second division on the gun-deck.

Question. Did the President or the Little Belt fire the first gun?

Answer. The Little Belt fired the first gun. I was looking out of a port, and saw her fire it.

BENJAMIN BROWN was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt? Answer. Yes, sir.

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Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then quartered at gun No. 7 of the second division on the gun-deck, and was shot and wad-man.

Question. Are the persons now on board the President who, at the time of the said action, were first and second captains of gun No. 7 of the second division? if not, where are they?

Answer. They are not now on board. The term of service of the first captain of that gun has expired, and he has been discharged; and the second captain has deserted.

Question. Did the President or the Little Belt fire the first gun?

Answer. The Little Belt fired the first gun. I was then looking at her, and saw her fire it.

EDWARD FITZGERALD was called into court, and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of, and quartered at, gun No. 8 of the second division on the gun-deck.

Question. Did the President or the Little Belt fire the first gun?

Answer. The Little Belt. I was then looking at her, and saw her fire.

JAMES CORNWALL having been sworn, was called into court and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of, and quartered at, gun No. 9 of the second division on the gun-deck.

Question. Did the President or the Little Belt fire the first gun?

Answer. The Little Belt, to the best of my knowledge. I was not then looking at her, but, from the report, and not feeling any jar, I believe she fired the first shot.

JOHN FITCH, having been previously sworn, was again called into court, and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was second captain of, and was quartered at, gun No. 10 of the second division on the gun-deck.

Question. Where is the first captain of gun No. 10 of the second division?

Answer. He has deserted.

Question. Did the President or the Little Belt fire the first gun?

Answer. I saw the Little Belt fire the first gun.

The court adjourned, to meet at the same place to-morrow morning, at 11 o'clock.

WEDNESDAY, September 11, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RICHARD THOMPSON, JOHN MASON, JAMES THOMPSON, DAVID LAWSON, and JAMES LEE, were produced and sworn as witnesses.

RICHARD THOMPSON was then examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was quartered at gun No. 11, in the third division on the gun-deck, and was fireman.

Question. Are the first and second captains of the said gun, No. 11, on board the frigate President?

Answer. The first captain of that gun is on board the said frigate, but is sick and confined to his hammock; and the second captain thereof has been discharged, his term of service having expired.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first shot. I was then looking at her out of a port, and saw the flash, and heard the report of her gun, just at the moment when Commodore Rodgers hailed her the second time.

JOHN MASON, having already been sworn, was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of gun No. 12 of the third division on the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt. I had my eyes on her at the time, and saw the flash of the gun she then fired.

DAVID LAWSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt? Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Relations with Great Britain.

Answer. I was captain of gun No. 14 of the third division on the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her and saw the flash of the gun.

JAMES LEE was called into court and examined. Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of gun No. 15 of the third division of the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt.

JAMES THOMPSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of gun No. 13 of the third division on the gun-deck, and was quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt. The second time the Commodore hailed her I was looking at her, and saw the flash and heard the report of the gun.

EDWARD WALKER, MOSES DUNBAR, GEORGE SIMMONS, and JOHN McCORMICK, were produced to the court and sworn as witnesses.

EDWARD WALKER was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of the first gun of the fourth division on the fore-castle, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. From the report of the gun that was first fired, and from not feeling any jar at that time, I am confident the Little Belt fired the first gun.

MOSES DUNBAR was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the second gun of the fourth division on the fore-castle, and was then quartered at the same.

Question. Is the first captain of that gun now on board the said frigate?

Answer. No, sir; his term of service having expired, he has been discharged.

Question. Which ship fired the first gun?

Answer. The Little Belt fired first. I was then looking at her out of a port, and saw the flash and heard the report of her gun.

GEORGE SIMMONS was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt? Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the third gun of the fourth division on the fore-castle, and was quartered at the same.

Question. Is the first captain of the said gun now on board the said frigate?

Answer. No, sir. He was discharged after his term of service had expired.

Question. Which ship fired the first gun?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash and heard the report of her gun.

JOHN McCORMICK was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the fourth gun of the fourth division on the fore-castle, and was quartered at the same.

Question. Is the first captain of that gun now on board the President?

Answer. He is not. His term of service having expired, he has been discharged.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her out of a port, when I saw the flash and heard the report of her gun.

WILLIAM CAMPBELL, THOMAS TAYLOR, PHILIP WERNER, SAMUEL BROWN, RICHARD CAFFOL, EDWARD PATTERSON, JOHN ANDERSON, and JAMES WELCH, were produced to the court and sworn as witnesses.

WILLIAM CAMPBELL was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of the first gun of the fourth division on the quarter-deck, and was then quartered at it.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her, and saw her fire it.

Relations with Great Britain.

THOMAS TAYLOR was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of the second gun of the fourth division on the quarter-deck, and was then quartered at it.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun five or six seconds before the President fired. I was then looking steadily at her, and saw the flash and heard the report of her gun.

PHILIP WERNER was called into the court and examined.

Question. Were you on board the frigate President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the President?

Answer. I was captain of the third gun of the fourth division on the quarter-deck, and was then quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking through a port at her, and saw the flash and heard the report of her gun.

SAMUEL BROWN was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was second captain of the fourth gun of the fourth division on the quarter-deck, and was then quartered at it.

Answer. Is the first captain of that gun now on board the President?

Answer. No, sir. He was discharged after his term of service had expired.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her, and saw the flash and heard the report of her gun.

RICHARD CAFFOL was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was second captain of the fifth gun of the fourth division on the quarter-deck, and was then quartered at that gun.

Question. Is the first captain of that gun now on board the President?

Answer. No, sir. He was discharged after his term of service had expired.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her out of a port, and saw the flash and heard the report of her gun, as much as three or four seconds before the President returned it.

EDWARD PATTERSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was then captain of the sixth gun of the fourth division on the quarter-deck, and was quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I was then looking at her, and saw the flash and heard the report of it.

JOHN ANDERSON was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was then captain of the seventh gun of the fourth division on the quarter-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I saw two flashes from her at the time, and heard the report of her gun.

JAMES WELCH was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, I was, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was captain of the eighth gun of the fourth division on the quarter-deck, and was then quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash and heard the report of her gun three or four seconds before any gun was fired from the President.

Lieutenant JOHN ORDE CREIGHTON was called into court and again examined.

Question by Commodore Rodgers. When the Little Belt's fire was silenced a second time, ought she to have been kept away or brought to, to have brought her guns to bear upon the President?

Answer. At the time the Little Belt's fire was a second time silenced, her broadside was bearing on the President; as the Little Belt dropped astern of the President, she luffed up, but she should then have been kept away to have brought her guns to bear upon the President.

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Question by Commodore Rodgers. At the time the Little Belt's guns were finally silenced, with the sail she had set at that time, had her rudder been free, could she have been kept away so as to have brought her guns to bear upon the President, had the commander of the Little Belt been so disposed?

Answer. At that time, had the rudder of the Little Belt been free, she could have been kept away so as to have brought her guns to bear upon the President.

Question by the same. When the Little Belt's fire was finally silenced, what do you suppose were Commodore Rodgers's motives for giving orders so instantaneously to stop the President's fire?

Answer. My opinion was, that Commodore Rodgers's orders proceeded from motives of humanity.

JACOB MULL was called into court and again examined.

Question by Commodore Rodgers. When the Little Belt's fire was finally silenced, what do you suppose were Commodore Rodger's motives for giving orders so instantaneously to stop the President's fire?

Answer. I suppose the Commodore's orders proceeded from motives of humanity.

ALEXANDER JAMES DALLAS was called into court and again examined.

Question by Commodore Rodgers. You have stated in your evidence that you heard two reports when you saw the Little Belt fire the first gun; what, in your opinion, did the said reports proceed from?

Answer. The one was the report of the gun from the Little Belt; and the other, I suppose, proceeded from the striking of the shot.

The court adjourned to meet at the same place to-morrow morning at 11 o'clock.

THURSDAY, Sept. 12, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

SILAS H. STRINGHAM, a midshipman on board the frigate President on the night of the action between her and the Little Belt, was sworn as a witness and interrogated.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt? Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I was then standing alongside of the Commodore looking at her, and saw the flash and heard the report of the gun.

JAMES H. LUDLOW was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then standing on a shot box, alongside of the Commodore, looking at her, and saw the flash and heard the report of the gun.

DAVID GELSTON INGRAHAM was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then standing in the starboard gangway, looking at her, and saw the flash and heard the report of her gun, before I heard the report of a gun from the President.

Lieutenant JOHN ORDE CREIGHTON was called into court and again examined.

Question. When you boarded the ship Little Belt the morning after the action, did you offer, by order of Commodore Rodgers, assistance to the commander of the Little Belt?

Answer. Yes, sir.

Lieutenant RAYMOND H. J. PERRY was called into court and again examined.

Question. At what hour, on the day of the action between the United States' frigate the President and His Britannic Majesty's ship the Little Belt, were the colors of the former hoisted? and how long were they kept flying?

Answer. The colors of the said frigate President were hoisted about a quarter before two, P. M. on the day of the said action, and were kept flying until noon of the following day.

Mr. President and Gentlemen of the Court:

I avail myself of the present moment to express my thanks for the patient investigation of the merits of the transaction which caused its convention; and I feel perfectly convinced that the evidence adduced is amply sufficient to insure that my conduct in this affair will meet the approbation of every unprejudiced mind, as well for its general tenor, as for the lenity shown to an assumed enemy, whom I had it in my power to destroy by a single broadside more, and that too without any risk of injuring the ship under my command.

Many of the interrogatories, put by myself to the witnesses, may have appeared to the court superfluous, I fear; but when it considers the odious features of the statement which has been exhibited in the newspapers, said to be Captain

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Bingham's official statement to Admiral Sawyer, (dated His Majesty's sloop *Little Belt*, May 21, 1811, *latitude 35° 53', longitude 71° 49' West*, Cape Charles bearing *West, distant 48 miles*;) I am sure it cannot complain of the time I have taken up in proving, while I had it in my power, that unblushing representation to be palpably and wilfully false.

I should not now longer trespass on the time and patience of the court, were it not probable that the present proceedings may be published to the world, and a consequent desire that even my motives for chasing the *Little Belt* should be known; and this I am the more desirous of, as great pains have been taken by a few individuals, who call themselves Americans, to impose a belief that I chased with a hostile intention; not, however, because I entertain a hope of producing any change in the sentiments of men like themselves, (and for the honor of my country I hope there are but few such,) who are disposed to represent all the acts of their Government, as well as of its agents, in an odious light, but to undeceive not only my own countrymen, but even every liberal Englishman, who may have been deceived by their sophistry.

That I did chase the *Little Belt* I acknowledge; but that I did so with the intention of offering menace or insult to the British flag, I declare, in the presence of my God, is without any foundation whatever; neither would the orders under which I was acting authorize such a course, any more than they would have justified my submitting to an insult from a British or any other ship of war.

Without further observation or comment than is necessarily connected with the subject, the following are, therefore, my reasons for having chased that ship: On the tenth of May, being then at anchor off Annapolis, I got under way to proceed to my station at New York, in consequence of an order from the honorable the Secretary of the Navy to that effect, in which he acquainted me of his having issued this order owing to his being informed that the trade of New York had become interrupted by British and French cruisers. At this time, I discovered by the newspapers that a British frigate, supposed to be the *Guerriere*, had, in the vicinity of Sandy Hook, and during my absence from the station, impressed out of the American brig *Spitfire*, bound coastwise, a young man by the name of Diggio, an American, and apprentice to the master of the brig. On the 16th of May, at a little past meridian, being at the time in seventeen fathoms water, about fourteen or fifteen leagues to the northward and eastward of Cape Henry, and about six leagues from the land to the southward of Chingoteague, a sail was discovered to the eastward, standing towards us under a press of canvass, which I soon made out, by the shape of her upper sails, as they became distinguishable from our deck, to be a man of war. Not having heard of any other ship of war than the before-mentioned frigate being on our coast, I concluded (and more particularly from the direction in

which she was discovered) that it was her, and accordingly determined to speak her, as well because I considered it my duty to know the names and characters if possible, of all foreign cruisers hovering on our coast, as from an impression, if it turned out to be the vessel I had conceived, that her commander, from having learnt, through the medium of the newspapers, the sensation which the beforementioned outrage had produced throughout the United States, might be induced, if he was not totally regardless of American claims to justice, to mention that he had the young man in question on board, and would deliver him up to me, and, perhaps, at the same time, assign some cause for such a gross violation of the sovereign rights of the American nation. At any rate, whether he was so disposed or not, if I could learn from him that the man was on board, I should have it in my power to represent the same to my Government, and thereby be the means of more readily effecting his emancipation from vassalage, and the cruel necessity of fighting the battles of the very country whose officer had thus unlawfully enslaved him; and, in doing this, I considered I was doing no more than a duty imposed on me by my situation; consequently, I felt regardless if, in accomplishing it, a further attempt should be made to insult my country by offering violence to the flag flying over my head; as I was then, am now, and ever shall be, prepared to repel any such insult or injury, to the very utmost of the force under my command, and that, too, without regard to the consequences resulting therefrom.

These gentlemen, were my motives for having chased the ship which I supposed to be the frigate that impressed Diggio, but which afterwards proved to be His Britannic Majesty's ship *Little Belt*; but, even if I had no such reason to justify my chasing, I maintain that the usage of nations, the treaty concluded in 1783 between the United States and Great Britain, as well as the British precedents, almost without number, gave me that right—if it be admitted that our country possesses any comparative or reciprocal rights whatever.

Although I admit I did chase the *Little Belt*, I nevertheless deny that her commander wished to prevent my coming up with him, otherwise he undoubtedly would not have kept away and set his studding sails when he was several miles to windward of me; added to this, his conduct was unfriendly, to say the least, as he declined showing his colors until after it was too dark to distinguish what they were; although he must have perceived, as well from the course I steered, as from my colors, (of which he undoubtedly saw the pennant,) that I wished to speak him. Indeed, the several circumstances make it apparent to me that he was ignorant of our force, and only wished to procrastinate our meeting until after it should be dark.

JOHN RODGERS.

True copy from the original on file in the office of the Secretary of the Navy:

C. W. GOLDSBOROUGH,
Chief Clerk of the Navy Dept.

Relations with Great Britain.

The Court of Inquiry, authorized and required by precept, issued by the honorable the Secretary of the Navy of the United States, bearing date the 24th of July, 1811, have, in conformity with the same, minutely examined into every circumstance stated in the letter of John Rodgers, Esq., bearing date off Sandy Hook, May 23, 1811, and addressed to the honorable the Secretary of the Navy of the United States, relative to the affair between the United States' frigate the President and His Britannic Majesty's ship the Little Belt; and having taken all the testimony that could, in any manner or degree, elucidate facts, do, in obedience to the aforesaid precept, state all the facts that have been disclosed.

First. It has been proved to the satisfaction of the court that Commodore Rodgers, on perceiving His Britannic Majesty's ship the Little Belt to be a ship of war, made every exertion to come up with her before dark.

Second. It has been proved to the satisfaction of the court that the flag of the United States was displayed on board the United States' frigate the President as soon as His Britannic Majesty's ship the Little Belt was discovered to be a ship of war, and was kept flying until noon of the following day.

Third. It has been proved to the satisfaction of the court that Captain Bingham acknowledged that the broad pennant of the United States' frigate the President had been distinguished, during the chase, from His Britannic Majesty's ship the Little Belt.

Fourth. It has been proved to the satisfaction of the court that no colors were perceived flying on board of His Britannic Majesty's ship the Little Belt until she hove to, and that it was then too dark to distinguish to what nation they belonged.

Fifth. It has been proved to the satisfaction of the court that Commodore Rodgers hailed His Britannic Majesty's ship the Little Belt first.

Sixth. It has been proved to the satisfaction of the court that Commodore Rodgers's hail was not satisfactorily answered.

Seventh. It has been proved to the satisfaction of the court that His Britannic Majesty's ship the Little Belt fired the first gun.

Eighth. It has been proved to the satisfaction of the court that the first gun fired by His Britannic Majesty's ship the Little Belt was without any previous provocation or justifiable cause.

Ninth. It has been proved to the satisfaction of the court that the shot fired from His Britannic Majesty's ship the Little Belt was returned from the United States' frigate the President by a single gun.

Tenth. It has been proved to the satisfaction of the court that the general fire was commenced by His Britannic Majesty's ship the Little Belt.

Eleventh. It has been proved to the satisfaction of the court that, after the firing had continued four or five minutes, His Britannic Majesty's ship the Little Belt ceased firing.

Twelfth. It has been proved to the satisfaction of the court that, after His Britannic Majesty's

ship, the Little Belt, had ceased firing, and the fire of the United States' frigate, the President, had, in consequence thereof, ceased, the former ship, in about three minutes, recommenced her fire upon the latter.

Thirteenth. It has been proved to the satisfaction of the court that the second fire continued about five minutes, when His Britannic Majesty's ship, the Little Belt, was totally silenced.

Fourteenth. It has been proved to the satisfaction of the court that, in both instances, when the fire of His Britannic Majesty's ship, the Little Belt, was silenced, Commodore Rodgers exerted himself to prevent further injury being done to her.

Fifteenth. It has been proved to the satisfaction of the court that the United States' frigate, the President, was lying to, with lights hoisted, during the night after the affair with His Britannic Majesty's ship, the Little Belt.

Sixteenth. It has been proved to the satisfaction of the court that Commodore Rodgers proffered aid to the commander of His Britannic Majesty's ship, the Little Belt, the morning after the encounter.

Seventeenth. It has been proved to the satisfaction of the court, that, in consequence of the fire from His Britannic Majesty's ship, the Little Belt, one boy was wounded on board the United States' frigate, the President, one shot struck her mainmast, another struck her foremast, and some of her rigging was cut.

Eighteenth. It has been proved to the satisfaction of the court that the letter of Commodore Rodgers, bearing date off Sandy Hook, on the 23d day of May last, and addressed to the honorable the Secretary of the Navy of the United States, is a correct and true statement of the occurrences which took place between the United States' frigate, the President, and His Britannic Majesty's ship, the Little Belt.

The court adjourned to meet to-morrow morning at Mechanics' Hall, in Broadway, in the city of New York.

FRIDAY, September 13, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, president; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

The court thereupon adjourned *sine die*.

STEPHEN DECATUR, *President*.

WM. PAULDING, Jr., *Judge Advocate*.

True copy from the original, on file in the office of the Secretary of the Navy.

C. W. GOLDSBOROUGH,
Chief Clerk, Navy Department.

UNITED STATES FRIGATE PRESIDENT,
(off Sandy Hook,) May 23, 1811.

SIR: I have the honor to acquaint you that, in obedience to your instructions of the 6th instant, I sailed from Annapolis on the 10th; but, owing to head winds, I did not get to sea until the 14th

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on which day, off Cape Henry, I supplied the ship *Madison*, of Baltimore, belonging to Mr. James Bias, with an anchor and cable, she being in distress on account of having lost hers, except one which was not sufficient to ride by. On the 15th instant, Cape Henry bearing west southwest, distant fifty miles, fell in with a second vessel, the brig *Sussex*, of New York, Neal, master, bound to Norfolk from Oronoko, in distress for provisions, which I supplied.

I regret extremely being under the necessity of representing to you an event that transpired on the night of the 16th instant, between the ship under my command, and His Britannic Majesty's ship of war, the *Little Belt*, commanded by Captain Bingham, the result of which has given me much pain, as well on account of the injury she sustained, as that I should have been compelled to the measure that produced it, by a vessel of her inferior force. The circumstances are as follows: On the 16th instant, at twenty-five minutes past meridian, in seventeen fathoms of water, Cape Henry bearing southwest, distant fourteen or fifteen leagues, a sail was discovered from our mast-head in the east, standing towards us under a press of sail. At half-past one, the symmetry of her upper sails (which were at this time distinguishable from our deck, and her making signals) showed her to be a man of war. At forty-five minutes past one, P. M., hoisted our ensign and pennant when, finding her signals not answered, she wore and stood to the southward. Being desirous of speaking her, and of ascertaining what she was, I now made sail in chase, and by half-past three, P. M., found we were coming up with her, as, by this time, the upper part of her stern began to show itself above the horizon from our deck. The wind now began and continued gradually to decrease, so as to prevent my being able to approach her sufficiently before sunset, to discover her actual force, (which the position she preserved during the chase was calculated to conceal,) or to judge even to what nation she belonged, as she appeared studiously to decline showing her colors. At fifteen or twenty minutes past seven, P. M., the chase took in her studding sails, and soon after hauled up her coursers, and hauled by the wind on the starboard tack; she, at the same time, hoisted an ensign or flag at her mizzen peak, but it was too dark for me to discover what nation it represented; now, for the first time, her broadside was presented to our view; but night had so far progressed, that although her appearance indicated she was a frigate, I was unable to determine her actual force. At fifteen minutes before eight P. M., being about a mile and a half from her, the wind at the time very light, I directed Captain Ludlow to take a position to windward of her, and on the same tack, within short speaking distance. This, however, the commander of the chase appeared from his manœuvres to be anxious to prevent; as she wore, I hauled by the wind on different tacks, four times successively, between this period and the time of our arriving at the position I had ordered to be taken. At fifteen or

twenty minutes past eight, being a little forward of her weather beam, and distant from seventy to a hundred yards, I hailed, "What ship is that?" To this inquiry no answer was given; but I was hailed by her commander and asked, "What ship is that?" Having asked the first question, I, of course, considered mine entitled, by the common rules of politeness, to the first answer, after a pause of fifteen or twenty seconds, I reiterated my first inquiry, "What ship is that?" and, before I had time to take the trumpet from my mouth, I was answered by a shot that cut off one of our main-topmast breast back-stays, and went into our mainmast. At this instant, Captain Caldwell, (of marines,) who was standing very near me on the gangway, having observed, "Sir, she has fired at us," caused me to pause for a moment. Just as I was in the act of giving an order to fire a shot in return, and before I had time to resume the repetition of the intended order, a shot was actually fired from the second division of this ship, and was scarcely out of the gun before it was answered from our assumed enemy by three others in quick succession, and soon after the rest of his broadside and musketry. When the first shot was fired, being under an impression that it might possibly have proceeded from accident, and without the orders of the commander, I had determined, at the moment, to fire only a single shot in return; but the immediate repetition of the previous unprovoked outrage induced me to believe that the insult was premeditated, and that, from our adversary's being at the time as ignorant of our real force as I was of his, he thought this, perhaps, a favorable opportunity of acquiring promotion, although at the expense of violating our neutrality and insulting our flag. I, accordingly, with that degree of repugnance incident to feeling equally determined neither to be the aggressor nor to suffer the flag of my country to be insulted with impunity, gave a general order to fire; the effect of which, in from four to six minutes, as near as I can judge, having produced a partial silence of his guns, I gave orders to cease firing, discovering, by the feeble opposition, that it must be a ship of very inferior force to what I had supposed, or that some untoward accident had happened to her. My orders in this instance, however, (although they proceeded alone from motives of humanity, and a determination not to spill a drop of blood unnecessarily,) I had, in less than four minutes, some reason to regret, as he renewed his fire, of which two thirty-two pound shot cut off one of our fore-shrouds and injured our foremast. It was now that I found myself under the painful necessity of giving orders for a repetition of our fire against a force which my forbearance alone had enabled to do us any injury of moment. Our fire was accordingly renewed, and continued from three to five minutes longer, when, perceiving our opponent's gaff and colors down, his main-top-sail-yard upon the cap, and his fire silenced, although it was so dark that I could not discern any other particular injury we had done, or how far he was in a situation to do us further harm,

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I nevertheless embraced the earliest moment to stop our fire, and to prevent the further effusion of blood. Here a pause of half a minute, or more, took place, at the end of which our adversary not showing a further disposition to fire, I hailed and again asked, "What ship is that?" and learned, for the first time, that it was a ship of His Britannic Majesty; but owing to its blowing rather fresher than it had done, I was unable to learn her name. After having informed her commander of the name of this ship, I gave orders to wear, run under his lee, and haul by the wind on the starboard tack, and heave to under topsails, and repair what little injury we had sustained in our rigging, &c., which was accordingly executed; and we continued lying to, on different tacks, with a number of lights displayed, in order that our adversary might the better discern our position, and command our assistance in case he found it necessary during the night. At daylight, on the 17th, he was discovered several miles to leeward, when I gave orders to bear up and run down to him under easy sail; after hailing him, I sent a boat on board with Lieutenant Creighton, to learn the names of the ship and her commander, with directions to ascertain the damage she had sustained, and to inform her commander how much I regretted the necessity, on my part, which had led to such an unhappy result; at the same time to offer all the assistance that the ship under my command afforded, in repairing the damages he had sustained. At nine, A. M., Lieutenant Creighton returned with information that it was His Britannic Majesty's ship, the *Little Belt*, commanded by Captain Bingham, who, in a polite manner, declined the acceptance of any assistance, saying, at the same time, that he had on board all the necessary requisites to repair the damages sufficiently to enable him to return to Halifax. This, however, was not the most unpleasant part of Captain Bingham's communication to Lieutenant Creighton; as he informed him that, in addition to the injury his ship had sustained, between twenty and thirty of his crew had been killed and wounded.

The regret that this information caused me was such, you may be sure, as a man might be expected to feel, whose greatest pride is to prove, without ostentation, by every public as well as private act, that he possesses a humane and generous heart; and with these sentiments believe me, sir, that such a communication would cause me the most acute pain during the remainder of my life, had I not the consolation to know that there was no alternative left me between such a sacrifice, and one which would have been still greater, namely, to have remained a passive spectator of insult to the flag of my country, whilst it was confided to my protection; and I would have you to be convinced, sir, that, however much individually I may previously have had reason to feel incensed at the repeated outrages committed on our flag by British ships of war, neither my passion nor prejudices had any agency in this affair.

To my country I am well convinced of the im-

portance of the transaction, which has imposed upon me the necessity of making you this communication. I must, therefore, from motives of delicacy, connected with personal considerations, solicit that you will be pleased to request the President to authorize a formal inquiry to be instituted into all the circumstances, as well as every part of my conduct connected with the same.

The injury sustained by the ship under my command is very trifling, except to the fore and main masts, which I before mentioned; no person killed, and but one (a boy) wounded.

For further particulars I refer you to Captain Caldwell, who is charged with the delivery of this communication.

I have the honor to be, with the greatest respect, sir, your obedient servant,

JOHN RODGERS.

P. S. The *Little Belt* is a corvette, about the size of the *John Adams*, but, owing to her great length, her having a poop and topgallants, fore-castle, and room to mount three more guns of a side than she actually carries, her deep bulwark, and the manner of stowing her hammocks, she has the appearance of a frigate, and would always be taken for such from the view we had of her during the chase, as we never had a sight of her broadside until it was too dark to ascertain that she only carried one tier of guns. She is, by Steele's list, (1809) rated at twenty guns.

JOHN RODGERS.

Hon. PAUL HAMILTON, *Sec'y of the Navy*.

True copy from the original on file in the office of the Secretary of the Navy.

CH. W. GOLDSBOROUGH,
Chief Clerk, Navy Department.

From Mr. Foster to Mr. Monroe.

WASHINGTON, October 24, 1811.

SIR: I have had the honor to receive your letter of the 11th instant, enclosing a copy of the proceedings of a court of inquiry held by order of the President of the United States on the conduct of Commodore Rodgers in the late encounter between a frigate of the United States, the President, and His Majesty's ship, the *Little Belt*, fixing on Captain Bingham the charge of having commenced the engagement, and claiming, in consequence, the attention of His Majesty's Government towards it as to an act of hostility on the part of the British officer.

I may be permitted to remind you, sir, that after I had ascertained from you that no hostile intentions on the part of the Government of the United States were connected with the proceedings of Captain Rodgers, all that I asked, in the first instance, was, that the President of the United States would be pleased to order an inquiry into his conduct, which had tended so seriously to interrupt the harmony subsisting between our two countries, and which, having hitherto received no palliation whatever from any evidence in contradiction to Captain Bingham's statement as officially transmitted to His Majesty's Gov-

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ernment, must have continued to appear to them to be utterly incapable of receiving any.

The document you have now done me the honor to communicate to me, with the copy annexed of Captain Rodgers's letter, (for the first time officially before me,) is, however, so far satisfactory, as it shows that Captain Rodgers has endeavored to exculpate himself, exhibiting the ground on which he rests his defence; and I shall without delay transmit it to be laid before His Royal Highness the Prince Regent. It certainly proves a most unaccountable difference to exist between the statement of the commander and officers of the Little Belt and those of the President, as to the firing of the first gun; but I must remark that, from the concurrent testimony of several officers of the United States' ship as to the orders given by Captain Rodgers on nearing the Little Belt, there appears to have been an impression on his mind that an encounter was to ensue; and, as the Little Belt was evidently endeavoring to avoid him, such an idea, it would seem, could only have arisen from the opinion he entertained of his own proceedings as being likely to bring it on.

I take occasion to acknowledge the receipt of your letter dated September 14, in answer to mine of the 2d, a copy of which I immediately forwarded to my Government.

I have the honor to be, with the highest consideration and respect, sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

IV.—*Correspondence relative to the attack by the British frigate, Leopard, on the American frigate, Chesapeake.*

Mr. Foster to Mr. Monroe.

WASHINGTON, October 30, 1811.

SIR: I have already had the honor to mention to you that I came to this country furnished with instructions from His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States of America in the affair of the Chesapeake frigate; and I had also that of acquainting you with the necessity under which I found myself of suspending the execution of those instructions, in consequence of my not having perceived that any steps whatever were taken by the American Government to clear up the circumstances of an event which threatened so materially to interrupt the harmony subsisting between our two countries as that which occurred in the month of last May between the United States' ship, President, and His Majesty's ship Little Belt, when every evidence before His Majesty's Government seemed to show that a most violent and wanton outrage had been committed on a British sloop of war by an American Commodore.

A court of inquiry, however, as you informed me in your letter of the 11th instant, has since been held by order of the President of the United

States on the conduct of Commodore Rodgers; and this preliminary to further discussion on the subject being all that I asked in the first instance as due to the friendship subsisting between the two States, I have now the honor to acquaint you that I am ready to proceed, in the truest spirit of conciliation, to lay before you the terms of reparation which His Royal Highness has commanded me to propose to the United States' Government, and only wait to know when it will suit your convenience to enter upon the discussion. I have the honor to be, &c.,

AUGUSTUS J. FOSTER.

To the Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

WASHINGTON, DEP'T OF STATE,
October 31, 1811.

SIR: I have just had the honor to receive your letter of the 30th of this month.

I am glad to find that the communication which I had the honor to make to you on the 11th instant, relative to the court of inquiry which was the subject of it, is viewed by you in the favorable light which you have stated.

Although I regret that the proposition you now make in consequence of that communication has been delayed to the present moment, I am ready to receive the terms of it whenever you may think proper to communicate them. Permit me to add, that the pleasure of finding them satisfactory will be duly augmented if they should be introductory to a removal of all the differences depending between our two countries, the hope of which is so little encouraged by your past correspondence. A prospect of such a result will be embraced on my part with a spirit of conciliation equal to that which has been expressed by you.

I have the honor, &c.

JAMES MONROE.

Hon. AUGUSTUS J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, November 1, 1811.

SIR: In pursuance of the orders which I have received from His Royal Highness the Prince Regent, in the name and on behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States in the affair of the Chesapeake frigate, I have the honor to acquaint you:

First. That I am instructed to repeat to the American Government the prompt disavowal made by His Majesty, (and recited in Mr. Erskine's note of April 17, 1809, to Mr. Smith,) on being apprized of the unauthorized act of the officer of his naval forces on the coast of America, whose recall from a highly important and honorable command immediately ensued, as a mark of His Majesty's disapprobation.

Secondly. That I am authorized to offer, in addition to that disavowal on the part of His Royal Highness, the immediate restoration, as far as cir-

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cumstances will admit, of the men who, in consequence of Admiral Berkeley's orders, were forcibly taken out of the Chesapeake, to the vessel from which they were taken; or, if that ship should be no longer in commission, to such seaport of the United States as the American Government may name for the purpose.

Thirdly. That I am also authorized to offer the American Government a suitable pecuniary provision for the sufferers in consequence of the attack on the Chesapeake, including the families of those seamen who unfortunately fell in the action, and of the wounded survivors.

These honorable propositions, I can assure you, sir, are made with the sincere desire that they may prove satisfactory to the Government of the United States, and I trust they will meet with that amicable reception which their conciliatory nature entitles them to. I need scarcely add how cordially I join with you in the wish that they might prove introductory to a removal of all the differences depending between our two countries.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE,

November 12, 1811.

SIR: I have had the honor to receive your letter of the 1st of November, and lay it before the President.

It is much to be regretted that the reparation due for such an aggression as that committed on the United States' frigate the Chesapeake should have been so long delayed; nor could the translation of the offending officer from one command to another be regarded as constituting a part of a reparation otherwise satisfactory. Considering, however, the existing circumstances of the case, and the early and amicable attention paid to it by His Royal Highness the Prince Regent, the President accedes to the proposition contained in your letter, and, in so doing, your Government will, I am persuaded, see a proof of the conciliatory disposition by which the President has been actuated.

The officer commanding the Chesapeake, now lying in the harbor of Boston, will be instructed to receive the men who are to be restored to that ship. I have the honor to be, &c.

JAMES MONROE.

The Hon. AUGUSTUS J. FOSTER, &c.

FRANCE.

[Communicated to Congress by the Messages of November 5 and 8, 1811, and May 26 1812.]

To the Senate and House of

Representatives of the United States:

I now lay before Congress two letters to the Department of State; one from the present Plenipotentiary of France, the other from his predecessor, which were not included among the

documents accompanying my message of the 5th instant, the translation of them not being then completed.

JAMES MADISON.

NOVEMBER 7, 1811.

To the Senate and House of

Representatives of the United States:

I communicate to Congress, for their information, copies and extracts from the correspondence of the Secretary of State and the Minister Plenipotentiary of the United States at Paris. These documents will place before Congress the actual posture of our relations with France.

JAMES MADISON.

MAY 26, 1812.

General Turreau to the Secretary of State.

WASHINGTON, November 14, 1810.

SIR: Although you may have been already informed, through another official channel, of the repeal of the decrees of Berlin and Milan, it is agreeable to me to have to confirm to you this new liberal disposition of my Court towards the Government of the States of the Union.

You will recollect, without doubt, sir, that these decrees were adopted in retaliation for the multiplied measures of England against the rights of neutrals, and especially against those of the United States; and, after this new proof of deference to the wishes of your Government, His Majesty the Emperor has room to believe that it will make new efforts to withdraw the American commerce from the yoke which the prohibitory acts of Great Britain have imposed upon it. You will, at the same time, observe, sir, that the clearly expressed intention of my Government is, that the renewal of commercial intercourse between France and the United States cannot alter the system of exclusion adopted by all Europe against all the products of the soil or of the manufactures of England or her colonies; a system, the wisdom and the advantages of which are already proved by its development and its success, and of which, also, the United States, as an agricultural and commercial Power, have a particular interest in aiding in and hastening the completion. Moreover, sir, this measure of my Government, and those which yours may think proper to adopt, will prove the inutility of the efforts of the common enemy to break the ties of friendship which a humane and generous policy has necessarily formed between France and the United States, and which the actual crisis ought to draw closer. We ought hereafter, sir, to hope, or rather we may be assured, that new relations, still more close and more friendly, are about to be formed between Americans and Frenchmen, and that these two people will be more than ever convinced that their glory, their interest, and their happiness must eternally consecrate the principle and the conservation of these relations.

I seize with eagerness this occasion, sir, of renewing to you the assurance of my high consideration.

TURREAU.

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Mr. Russell, Chargé to France, to Mr. Smith, Secretary of State.

PARIS, *January 16, 1811.*

SIR: Your letter of the 8th of November, relative to the powers given by this Government to its Consuls in the United States, under its decree concerning licenses, was received by me on the 11th instant, and the next day I communicated its contents to the Duke of Cadore in a note, a copy of which you will find enclosed.

I remain, &c.

JONATHAN RUSSELL.

HON. ROBERT SMITH, *Secretary of State.*

[Referred to in the preceding despatch.]

Mr. Russell to the Duke of Cadore.

PARIS, *January 12, 1811.*

SIR: The public journals and letters from General Armstrong have announced to the American Government an imperial decree, by which permission is to be granted to a stated number of American vessels to import into France, from certain ports of the United States, the articles therein specified, and to export, in return, such productions of the French Empire as are also enumerated in said decree. This trade, it would appear, is to be carried on under the authority of imperial licenses, and can only be perfected by the act of the French Consul residing within the jurisdiction of the United States, at the specified ports.

The United States have no pretension of right to object to the operation of commercial regulations, strictly municipal, authorized by the French Government to take effect within the limits of its own dominions; but I am instructed to state to you the inadmissibility, on the part of the United States, of such a consular superintendence as that which is contemplated by this decree, respecting a trade to be carried on under licenses.

France cannot claim for her Consuls, either by treaty or custom, such a superintendence. They can be permitted to enjoy such legitimate functions only as are sanctioned by public law, or by the usage of nations growing out of the courtesy of independent States.

Besides, the decree in question professes to invest certain Consuls with a power which cannot be regularly exercised in the United States without the tacit permission of the American Government; a permission that cannot be presumed, not only because it is contrary to usage, but because Consuls thus acting would be exercising functions in the United States, in virtue of French authority only, which the American Government itself is not competent to authorize in any agents whatever.

If the construction given by the Government of the United States to this decree be correct, the Government of France should not, for a moment, mislead itself by a belief that its commercial agents will be permitted to exercise the extraordinary power thus intended to be given to them.

I pray your Excellency, &c.

JONATHAN RUSSELL.

His Exc'y the DUKE OF CADORE.

Mr. Russell to Mr. Smith, Secretary of State.

PARIS, *January 21, 1811.*

SIR: On the 18th instant I received a note dated that day, from the Duke of Cadore, in answer to the representation which I had made to him on the 12th of this month relative to the exceptionable powers intended to be exercised by French Consuls in the United States, in perfecting the contemplated trade under licenses.

You will perceive with satisfaction, that not only these powers, but the system itself, under which they were to have been exercised, have been abandoned. I have the honor, &c.

JONATHAN RUSSELL.

HON. ROBERT SMITH,

Secretary of State.

[Referred to in Mr. Russell's despatch of 21st January, 1811.]

The Duke of Cadore to Mr. Russell.

PARIS, *January 18, 1811.*

SIR: I have read with much attention your note of the 12th day of January, relative to the licenses intended to favor the commerce of the Americans in France. This system had been conceived before the revocation of the decrees of Berlin and Milan had been resolved upon. Now circumstances are changed by the resolution that has been taken by the United States to cause their flag and their independence to be respected. That which has been done before this last epoch can no longer serve as a rule under actual circumstances. Accept, sir, the assurances, &c.

CHAMPAGNY, *Duke de Cadore.*

Mr. RUSSELL, *Chargé, &c.*

Mr. Russell to the Duke of Bassano.

PARIS, *April 29, 1811.*

Encouraged by the assurances which your Excellency was pleased to give me in the conversation which I had the honor to hold with you yesterday, that the French Government was disposed to promote, as far as might be in its power, the success of the mission of the special Minister of the United States to the Court of Denmark, I dare persuade myself that your Excellency will feel no hesitation in returning such an answer to the following inquiries as shall place the facts to which they relate beyond the possibility of doubt or controversy.

1st. Did not the Minister of Foreign Relations, by a despatch, dated the 20th of April, 1808, authorize the Consuls of France in the United States to deliver certificates of origin to vessels destined for neutral or allied ports, and prescribe the formalities required for such certificates?

2d. Was not the despatch of the Duke of Cadore, of the 30th of August last, the first that was received in the United States, either by the French Minister or Consul General there, prohibiting the further delivery by French Consuls of certificates of origin except to vessels destined to French ports?

3d. Was not this last mentioned despatch first

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received by General Turreau, on the 13th of November last, and for the first time communicated by him on that day to the French Consuls, and were not these Consuls in the official and authorized practice, until the said 13th of November, of furnishing certificates of origin to American vessels bound to neutral ports, or to ports belonging to the allies of France? and might not some of these Consuls, by reason of their distance from the place of residence of General Turreau, have lawfully executed and delivered such certificates several days subsequent to that time?

These facts are directly established by the letter of General Turreau to Mr. Smith, of the 12th of November last, or necessarily inferred from the declarations contained in that letter; and I cannot permit myself to doubt that your Excellency will readily repeat them in a form that shall claim the attention of the Danish Government, and induce it to correct any errors which an ignorance or misapprehension of them may have occasioned in its proceedings against American property.

I rely with the more confidence on the frankness of your Excellency in according the request now presented to you, as a refusal might operate to the confiscation of much innocent property, and, at the same time, appear to falsify the lawful acts of the Consuls and the official declaration of the Minister of France in the United States.

I beg leave to renew to your Excellency the assurances, &c. J. RUSSELL.

His Exc'y the DUKE OF BASSANO.

Copy of a letter from Mr. Russell to Mr. Smith,
Chargé d'Affaires, &c.

PARIS, May 10, 1811.

SIR: I hand you herewith the copy of a letter* to me from his Excellency, the Duke of Bassano, dated the 4th instant, and enclosing a list of the American vessels whose cargoes have been admitted by order of the Emperor.

As this list contains all the American vessels, except one only, whose papers were mislaid, which have arrived spontaneously in the ports of France since the 1st of November last, which had not already been admitted, the measure adopted by this Government may, perhaps, be considered to be of a general character, and a consequence of the actual relations between the two countries, growing out of the revocation of the Berlin and Milan decrees, so far as they violated the neutral rights of the United States.

I am, sir, your obedient servant,

JONATHAN RUSSELL.

JOHN S. SMITH, Esq., *Chargé, &c.*

Mr. Russell to Mr. Smith, Secretary of State.

PARIS, May 27, 1811.

SIR: By the first opportunity which presented itself after the admission of our vessels on the

*See this copy in the enclosures of that of Mr. Russell's letter of the 15th July.

4th May, I communicated this event to the American Chargé d'Affaires at London, in hopes that it might be useful there. The enclosed is a copy* of the note which I addressed to him on the occasion. I am, sir, with great respect, &c.

JONATHAN RUSSELL.

Hon. ROBERT SMITH,
Secretary of State.

Mr. Russell to the Secretary of State.

PARIS, June 9, 1811.

SIR: The case of the New Orleans Packet having apparently excited considerable interest, it may not be unacceptable to you to receive a more particular account of it than I have hitherto transmitted.

This vessel, owned by Mr. Alexander Ruden, of New York, left that place on the 25th of July, with a clearance for Lisbon, but actually destined for Gibraltar. Her cargo, likewise the property of Mr. Ruden, consisted of two hundred and seven whole tierces and thirty-one half tierces of rice, three hundred and thirty bags of Surinam cocoa, ten hogsheads of tobacco, six tierces of hams, fifty barrels of pork, sixty barrels of beef, two hundred barrels of flour, thirty tierces of beans, and sixty-four firkins of butter. On her passage to Gibraltar, she was boarded by an English frigate and an English schooner, and, after a short detention, allowed to proceed. On arriving at Gibraltar the 26th of August, Mr. Munro, the supercargo, proceeded to sell the cargo, and actually disposed of the flour, the beans, and the butter; when, about the 20th of September, a packet arrived there from England, bringing newspapers containing the publication of the letter from the Duke of Cadore of the 5th of August. On the receipt of this intelligence, Mr. Munro immediately suspended his sales; and, after having consulted with Mr. Hackley, the American Consul at Cadiz, he determined to proceed with the remainder of his cargo to Bordeaux. He remained, however, at Gibraltar until the 22d of October, that he might not arrive in France before the first of November, the day on which the Berlin and Milan decrees were to cease to operate. He arrived in the Garonne on 14th of November; but, by reason of his quarantine, did not reach Bordeaux before the 3d of December. On the 5th of this month the director of the customs there seized the New Orleans Packet and her cargo, under the Milan decrees of the 23d November and 17th December, 1807, expressly set forth, for having come from an English port, and for having been visited by an English vessel of war. These facts having been stated to me by Mr. Munro, or by Mr. Meyer, the American Vice-Consul at Bordeaux, and the principal one, that of the seizure under the Milan decrees, being established by the *procès verbal*, put into my hands by Mr. Martin, one of the consignees of the cargo, I conceived it to be my duty not to suffer the transaction to pass unnoticed, and

*Enclosed in Mr. Smith's letter of 22d July, 1810.

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thereby permit it to grow into a violation of the engagements of this Government. While I was considering the most proper mode of bringing the conduct of the custom-house officer at the port under the eyes of his superiors, I learned of the arrival of the *Essex* at L'Orient. From the time at which this frigate was reported to have left the United States, I had no doubt that she had brought the proclamation of the President, announcing the revocation of the very decrees under which this precipitate seizure had been made. I could but think, therefore, that it was important to afford to this Government an opportunity of disavowing the conduct of its officer, so incompatible with the engagements on which the President had, in all probability, reposed with confidence, in season to show that this confidence had not been mistimed or misplaced. To have waited for the receipt of the proclamation, in order to make use of it for the liberation of the *New Orleans Packet*, appeared to me a preposterous and unworthy course of proceeding, and to be nothing better than absurdly and basely employing the declaration of the President that the Berlin and Milan decrees had been revoked as the means of obtaining their revocation. I believed it became me to take higher ground, and, without confining myself to the mode best calculated to recover the property, to pursue that which the dignity of the American Government required.

A crisis, in my opinion, presented itself, which was to decide whether the French edicts were retracted as a preliminary to the execution of our law, or whether, by the non-performance of one party and the prompt performance of the other, the order in which these measures ought to stand was to be reversed, and the American Government shuffled into the lead where national honor and the law required it to follow. Uncertain what would be the conduct of this Government, but clear what it ought to be, I thought it politic to present briefly the honest construction of the terms in which the revocation of the decrees was communicated on the 5th of August, that the conditions might not be tortured into a pretext for continuing them. I believed this to be the more necessary, as no occasion had hitherto occurred for offering such an interpretation. I likewise supposed it to be desirable to take from this Government, by a concise statement of facts, the power of imputing neglect to the United States, in performing the act required of them, for the purpose of finding in this neglect a color for again executing the decrees. These were my views in writing promptly and frankly on the occasion.

So acceptable, indeed, did I suppose it would be to the feelings of the American Government to obtain at least an explanation of an act ostensibly proving the continued operation of the decrees, previous to communicating the proclamation of the President announcing their revocation, that, although I received this proclamation on the 13th of December, I deferred the communication of it to the Duke of Cadore until the 17th of that

month; nor should I then have communicated it had not an interview with him on the 15th led me to believe that much time might be necessary to procure official reports from the custom-house relative to the seizure in question, and that, until these reports were received, it would be impossible formally to explain or correct this proceeding. When, however, I declined, uninstructed as I was, incurring the responsibility of this protracted delay, and decided on communicating the proclamation before a satisfactory explanation was received, I took care to guard against any misconstruction, by explicitly declaring at the outset that this proclamation "had been issued alone on the ground that the revocation of the Berlin and Milan decrees did not depend on any condition previously to be performed by the United States."

The custom-house officers at Bordeaux commenced unloading the *New Orleans Packet* on the 10th of December, and completed this work on the 20th of that month, as appears by their *procès verbaux* of those dates. That of the 20th expressly declares that the confiscation of this property was to be pursued before the Imperial Council of Prizes at Paris, according to the decrees of the 23d of November, and the 17th of December, 1807, or, in other words, the decrees of Milan. The decree of the 23d of March, or the Rambouillet decree, is also mentioned; but as I wrote my note of the 10th of December with a view only to the letter of the Duke of Cadore, announcing the revocation of the Berlin and Milan decrees, and as the *procès verbal* of the 5th appears to waive the application of the Rambouillet decree, as unnecessary, I took no notice of it.

On Monday, the 17th of December, my remonstrance was submitted to a council of commerce, and referred by it to the Director General of the Customs for his report. From this time all further proceedings against the *New Orleans Packet* were suspended. The papers were not transmitted to the Council of Prizes, nor a prosecution instituted before that tribunal for the confiscation of the property, as was confessedly the intention of the officers concerned in the seizure. This prosecution was not only abandoned, but on the 9th of January the vessel and cargo were placed at the disposition of the consignees, on giving bond to pay the estimated amount, should it definitively be so decided. Nothing is now wanted to complete the liberation of the *New Orleans Packet* and her cargo but the cancelling of this bond.

It appears, therefore, that the remonstrance of the 10th of December arrested the proceeding complained of before it had assumed a definite character, or unequivocally become a breach of faith, and not only rescued the property from the seizure with which it had been visited, but, by procuring its admission, placed it in a situation more favorable than that of many other vessels and cargoes which continued to be holden in a kind of mortmain, by the suspension of all proceedings with regard to them. I have the honor
J. RUSSELL.

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P. S. July 5th. I have the satisfaction to announce to you, that, since writing the above, an order has been given to cancel the bond, and a letter just received from the commercial agent of the United States at Bordeaux informs me that it is actually cancelled.

Mr. Russell to Mr. Monroe.

PARIS, July 14, 1811.

SIR: I have the honor to hand you herein, a copy of my note of the 8th instant to the Duke of Bassano claiming the release of twenty-three American seamen, stated to have been pressed into the French service at Dantzic, and in its vicinity.

When I called on the Duke on the 9th he acknowledged the receipt of this note, and said that he should immediately write to the Minister of Marine on the subject. In the conversation which I had with him yesterday, he informed me that he had performed this engagement, and that the Minister of Marine had replied that no American citizens had been pressed by his orders; that the city of Dantzic had been required to furnish a certain number of seamen, and was alone responsible for the manner in which it had complied with this requisition. The Duke of Bassano also added that my note had been laid before the Emperor, and that His Majesty had ordered that, on the arrival of the seamen from Dantzic at Antwerp, where they were expected yesterday, all that were American citizens should be discharged, and the city of Dantzic should be required to furnish others in their stead. From the solicitude which the Duke of Bassano evidently discovered to get rid of the imputation of having pressed our citizens, I doubt not everything will be done in this affair to remove all cause of complaint. I am, sir, &c.

JONATHAN RUSSELL.

[Enclosed in the preceding.]

Mr. Russell to the Duke of Bassano.

PARIS, July 8, 1811.

SIR: I have just received information by a letter from F. W. Zutze, Esquire, who holds a commission as Consul of the United States at Stettin, that on the 17th ultimo twenty-three American seamen passed that place, under escort of a French guard, to be put on board the ships of war at Antwerp. It is represented to me that these seamen had been forcibly pressed at Dantzic and other places on the Baltic, by order of his Excellency the Minister of Marine. In confirmation of this fact, I have a letter from Captain Charles Payne, of the American ship *Atlantic*, taken into Dantzic by a French cruiser, stating that twelve of his men, including his mate, had been pressed in this way at that place. These twelve men probably constitute a part of the twenty-three above-mentioned.

It is my duty to engage your Excellency to cause an inquiry to be had by the competent authority into these facts, and to procure the release

of all the seamen above-mentioned, who are citizens of the United States.

I pray your Excellency to accept, &c.

JONATHAN RUSSELL.

His Exc'y the DUKE OF BASSANO.

Extract—Mr. Russell to the Secretary of State of the United States.

PARIS, July 15, 1811.

On the 5th of that month (May) I received a note (No. 1) from the Duke of Bassano, dated the 4th, containing a list of sixteen American vessels, whose cargoes had been admitted by order of the Emperor. I immediately transmitted to you several copies of this communication, and I gave you, on the 8th, such an account (No. 2) of the admitted cases as might aid you in forming a correct estimate of the political value of the measure adopted in their favor.

Although I was fully impressed with the importance of an early decision in favor of the captured vessels, none of which had been included in the list above-mentioned, yet I deemed it proper to wait a few days before I made an application upon the subject. By this delay I gave the Government here an opportunity of obtaining the necessary information concerning these cases, and of pursuing spontaneously the course which the relations between the two countries appeared to require. On the 11th, however, having learned at the Council of Prizes that no new order had been received there, I judged it my duty no longer to remain silent, lest this Government should erroneously suppose that, what had been done was completely satisfactory to the United States, and construing my silence into an acquiescence in this opinion, neglect to do more. I, therefore, on that day, addressed to the Duke of Bassano my note, (No. 3,) with a list of American vessels captured since the 1st of November. On the 16th, I learned that he had laid this note, with a general report on it, before the Emperor; but that His Majesty declined taking any decision with regard to it before it had been submitted to a council of commerce. Unfortunately this council did not meet before the departure of the Emperor for Cherbourg; and during his absence, and the festivals which succeeded it, there was no assemblage of this body. Immediately on receiving the communication of the Duke of Bassano of the 4th of May, I addressed him a note (No. 4) concerning the brig *Good Intent*, detained at St. Andero. Although this vessel had been in fact captured, yet, from the peculiar circumstances of the case, I hoped that she would be placed on the same footing as those which had been admitted. The answer (No. 5) which was returned by the Duke of Bassano, dated the 25th, I received the 28th, announced to me, however, that this affair must be carried before the Council of Prizes. Wishing to rescue this case from this inauspicious mode of proceeding, I again addressed him in relation to it in a note, (No. 6,) on the 2d of June. If I could not obtain at once the restoration of this vessel, it was desirable, at least, that she

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should be admitted to the benefit of the general measure, which I insinuated might be taken in favor of the captured class mentioned in my note of the 11th of May.

As in this note I have stated the case of the *Good Intent* to be analogous to those of the *Hare* and the *John*, it may be proper to explain to you both the points of resemblance and diversity, in order to reconcile this note with my declaration, that no captured vessel was on the list of the 4th of May. The cases agree in the destination to places under the authority of France, and in the arrestation by launches in the service of the French Government they differ in the *Hare* and *John*; having already, before they were taken, arrived at the port and within the territorial jurisdiction of the country to which they were bound; and the *Good Intent* having been taken without such jurisdiction, and conducted to a port to which she was not destined. The taking possession of the *Hare* and the *John* may be considered, then, as a seizure in port, and that of the *Good Intent* as a capture on the high seas.

On perceiving that the schooner *Friendship* was not mentioned in the list of admitted vessels, I caused inquiry to be made at the custom-house concerning the cause of this omission. It was stated that her papers had been mislaid, but that search was making for them, and that when found a report would immediately be made. I waited for this report until the 18th of May; but, finding it had not been made, I conceived it might be useful, in order to accelerate it, and to render complete the admission of the entire class to which this case belonged, to attract towards the *Friendship* the attention of the Minister of Foreign Relations. With this view I presented to him my note (No. 7) of that date. Having reflected much on the condition attached to the admission of the American cargoes, to export two thirds of the proceeds in silks, and being persuaded that the tendency of this restriction, added to the dangers of a vigilant blockade, and to the exactions of an excessive tariff, was to annihilate all commercial intercourse between the two countries, I believed it would not be improper for me to offer to this Government a few remarks on the subject. This I was the more inclined to do, as it was to be apprehended that this condition was not imposed as an expedient for temporary purposes only, but that it was intended to be continued as the essential part of a permanent system. In a note, therefore, of the 10th of June, (No. 8,) I suggested to the Duke of Bassano the evils which might be expected naturally to result from the operation of this restriction on exports. It is indeed apparent, that a trade that has to run the gauntlet of a British blockade, and is crushed with extravagant duties inwards, and shackled with this singular restriction outwards, cannot continue.

On the 14th of June, Mr. Hamilton, of the *John Adams*, reached Paris, and informed me that his vessel had arrived at Cherbourg. Unwilling to close my despatches by her, without being able to communicate something of a more definite and

satisfactory character than anything which had hitherto transpired, I immediately called at the office of Foreign Relations; but the Minister being at St. Cloud, I was obliged to postpone the interview which I sought until the Tuesday following. At this interview, I stated to him the arrival of the frigate, and my solicitude to transmit by her to the United States some act of this Government, justifying the expectation with which the important law which she had brought hither had undoubtedly been passed. I urged particularly a reply to my note of the 11th of May, relative to the captured vessels; and observed that, although the mere pecuniary value of this property might not be great, yet, in a political point of view, its immediate liberation was of the utmost consequence. I intimated to him, at the same time, that my anxiety was such to communicate by the *John Adams* a decision on these captures to the American Government, that I should detain this vessel until I had received it. He replied that his sentiments accorded perfectly with mine in this matter, and ascribed the delay which had taken place to the same causes as I have assigned. He assured me, however, that he would immediately occupy himself again with this business; and, unless a council of commerce should be holden within a few days, he would make a special report to the Emperor, and endeavor to obtain a decision from him in person. He approved my intention of detaining the frigate, and engaged to do whatever might depend on him, to enable me to despatch her with satisfaction. He added that he had already made inquiries of the competent authorities concerning the *Good Intent* and the *Friendship*, and that when their reports should be received he would do whatever the circumstances of the cases might warrant.

I now suggested to him the evils which resulted to our commercial intercourse with France, from the great uncertainty which attended it, owing to the total want on their part of clear and general regulations. After making a few observations in explanation of this remark, I requested to know if he would have any communication to make to me on the subject previous to the sailing of the *John Adams*. I was led to make this inquiry from information which I had indirectly obtained, that several resolutions for the regulation of our trade had been definitively decreed. He replied that no such communication would be made here, but that M. Serrurier would be fully instructed on this head. The resolutions just mentioned, as far as I have learned, are, to admit the produce of the United States (excepting sugar) without special permits or licenses; to admit coffee, sugar, and other colonial produce with such permits or licenses, and to prohibit everything arriving from Great Britain or places under her control. He again mentioned the discovery of the regulation of the year 12, authorizing the certificates of origin for French ports only, or for ports in possession of the French armies; but declared that, after the most thorough examination of the archives of his Department, no document or record had been found permitting these certificates to be

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granted for the ports of neutral or allied Powers. He again, however, professed a favorable disposition towards our negotiations in Denmark, and said "le succès de la mission de Mons. Erving s'accorderait parfaitement avec nos sentimens, et ne contrarierait nullement notre politique." The success of the mission of Mr. Erving accords perfectly with our sentiments, and is not contrary to our policy.

With the view above stated, I detained the John Adams until the 9th instant. I had, from time to time, in the meanwhile, informed myself of the proceedings with regard to the captured vessels, and ascertained that in fact the Duke of Bassano had made a report in relation to them. The Emperor, it appears, however, still wished for the decision of his council of commerce; and the report was laid before them on the 1st of this month, being the first time they had assembled since the date of my letter of the 11th of May. I waited in daily expectation of hearing the result of their deliberations until the 9th instant, when, conceiving sufficient time had been allowed for receiving it, and not feeling perfectly at my ease under the responsibility I was incurring for the unauthorized detention of the John Adams, I determined to learn from the Duke of Bassano in person what I might reasonably expect in the matter. I accordingly procured an interview with him on the day last mentioned. I reminded him of what had passed at our conference on the 18th ultimo, and told him that, in consequence thereof, I had kept the ship, but that I could not with propriety detain her longer, without the evident prospect of obtaining from the French Government the release of the captured vessels.

He expressed a conviction of the justice of my observations, and assured me that he was in hourly expectation of receiving a decision on the captured cases, and hoped that the John Adams might not be permitted to return without it. I thereupon consented to keep my despatches open until the 13th, assuring him that I could not take upon myself to protract the detention of the John Adams beyond that period.

On the 13th, about 10 o'clock, I received a note from the Duke of Bassano, of which the enclosed (No. 9) is a copy. I waited upon him immediately, and was informed that the Two Brothers, the Good Intent, and the Star, three of the captured vessels, had been liberated. He added, that no unnecessary delay would be allowed in deciding upon the whole.

I shall despatch Mr. Hamilton this day, and I shall send with him a messenger, to be landed on the other side, who will carry to Mr. Smith an account (No. 10) of what has been done here, to be used by him as he shall judge proper.

No. 1.

[Referred to in Mr. Russell's despatch of July 15.]

The Duke of Bassano to Mr. Russell.

PARIS, May 4, 1811.

SIR: I hasten to announce to you that His Majesty the Emperor has ordered his Minister of Finance to authorize the admission of the Amer-

ican cargoes, which had been provisionally placed in deposite on their arrival in France.

I have the honor to send to you a list of the vessels to which these cargoes belong; they will have to export the amount of them in national merchandise, of which two-thirds will be in silks.

I have not lost a moment in communicating to you a measure perfectly in accord with the sentiments of union and of friendship which exist between the two Powers.

Accept, sir, the assurance of my high consideration.
DUC DE BASSANO.

No. 2.

[Referred to in Mr. Russell's despatch of July 15.]

Mr. Russell to the Secretary of State.

PARIS, May 8, 1811.

SIR: I had the honor to address you on the 6th instant, by various ports, several copies of the note of the Duke of Bassano to me on the 4th, containing a list of the vessels, the admission of whose cargoes had been authorized by the Emperor.

This list comprises all the American vessels which had arrived without capture in the ports of France or the kingdom of Italy, since the 1st of November, and which had not already been admitted, excepting the schooner Friendship.

The papers of the Friendship had been mislaid at the custom-house, and no report of her case made to the Emperor.

As the New Orleans packet and her cargo had been given up, on bond, in January last, there can be no longer any question with regard to their admission but to make their liberation complete the bond should be cancelled.

All the vessels mentioned in the list, excepting the Grace Ann Greene, had come direct from the United States, without having done or submitted to any known act which could have subjected them to the operation of the Berlin and Milan decrees, had these decrees continued in force.

The Grace Ann Greene stopped at Gibraltar, remained many days there, and, in proceeding thence to Marseilles, was captured by an English vessel of war. The captain of the Grace Ann Greene, with a few of his people, rose upon the British prize crew, retook his vessel from them, and carried her and them into the port to which he was bound.

The captain considered this recapture of his vessel as an act of resistance to the British Orders in Council, and as exempting his property from the operation of the French decrees, professedly issued in retaliation of those orders. He likewise made a merit of delivering to this Government nine of its enemies, to be treated as prisoners of war.

His vessel was liberated in December, and his cargo the beginning of April last, and there is some difficulty in precisely ascertaining whether the liberation was predicated on the general revocation of the Berlin and Milan decrees, or on a special exemption from them, owing to the particular circumstances of the case.

It is somewhat singular that this vessel was

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placed on the list of the 4th instant, when she had been liberated and her cargo admitted so long before.

It may not be improper to remark, that no American vessel captured since the 1st of November has yet been released or had a trial.

These are the explanations which belong to the measure I had the honor to communicate to you on the 6th instant, and may afford some assistance in forming a just appreciation of its extent and character. I have the honor to be, &c.

JONATHAN RUSSELL.

No. 3.

[Referred to in Mr. Russell's despatch of 15th July.]

Mr. Russell to the Duke of Bassano.

PARIS, May 11, 1811.

I have the honor to present to your Excellency a list of the American vessels which, according to the information I have obtained, have been captured by French privateers since the 1st of November last, and brought into the ports of France. All proceedings in relation to these vessels have been suspended in the Council of Prizes, with the same view, no doubt, as the proceedings in the custom-house had been deferred with regard to those which had arrived voluntarily. The friendly admission of the latter encourages me to hope that such of the former at least as were bound to French ports, or to the ports of the allies of France, or to the United States, especially those in ballast, will be immediately released; and that orders will be given to bring on the trials of the remainder, should such a course be judged indispensable, without any unnecessary delay.

The measure for which I now ask, being in perfect accord with the friendly sentiments which prevail between the two countries, I persuade myself will obtain the early assent of His Majesty.

I pray your Excellency to accept the assurance of my highest consideration.

JONATHAN RUSSELL.

His Exc'y the DUKE OF BASSANO, &c.

List of American vessels taken by French privateers since the 1st of November, 1810, and carried into the ports of France, viz:

The Robinson Ova, from Norfolk, bound to London; cargo, tobacco, cotton, and staves; taken December 21, 1810; brought into Dunkirk.

The Mary Ann, from Charleston, bound to London; cargo, cotton and rice, taken March 3, 1811; brought into Dunkirk.

The General Eaton, from London, bound to Charleston; cargo, in ballast; taken December 6, 1811; brought into Calais.

The Neptune, from London, bound to Charleston; cargo, in ballast; taken December 7, 1811; brought into Dieppe.

The Clio, from London, bound to Philadelphia; cargo, English manufactures; taken December 7, 1811; vessel lost off Trequier, part of the cargo saved.

The Two Brothers, from Boston, bound to St. Malo; cargo, cotton, indigo, potashes, codfish, oil, and dye-wood; taken December 20, 1811; brought

into St. Malo. N. B. This vessel was taken within the territorial jurisdiction of France.

The Star, from Salem, bound to Naples; cargo, coffee, indigo, fish, dye-wood, &c.; taken February 2, 1811; brought into Marseilles.

The Zebra, from Boston, bound to Tarragona; cargo, forty thousand staves; taken January 27, 1811; brought into Marseilles.

No. 4.

[Referred to in Mr. Russell's despatch of 15th July.]

Mr. Russell to the Duke of Bassano.

PARIS, May 6, 1811.

I feel it my duty to represent to your Excellency that the American brig Good Intent, from Marblehead, with a cargo of oil, fish, cocoa, and staves, bound to Bilboa, was captured in December last by an armed launch in the service of the French Government, and carried into Santander. Mr. J. P. Rattier, the Consul of His Majesty the Emperor at that place, has taken possession of the cargo, and sold that part which was perishable, retaining in his hands the proceeds, and placing in depot the articles unsold, until he shall receive the superior orders of his Government.

The present flattering appearance that the relations between France and the United States will be preserved on the most amicable footing, encourages me to hope that the case of the Good Intent, after the long detention that has occurred, will attract the early attention of the French Government, and that the property will be restored to the American owner.

I pray your Excellency to accept, &c.

JONATHAN RUSSELL.

His Exc'y the DUKE OF BASSANO.

No. 5.

[Referred to in Mr. Russell's letter of July 15th.]

PARIS, May 25, 1811.

SIR: The object of the letter you have done me the honor to address to me the 7th of this month was to remonstrate against the sequestration of the American ship the "Good Intent," which had been carried into St. Andero, by a French vessel.

The Minister of Marine, to whom I hasten to write on this subject, has just answered me, that the case is carried before the Council of Prizes, which is alone competent to decide on the validity of the capture. He adds that it is before that tribunal that the owners of the Good Intent ought to be prepared to establish their rights, and that he will have no other agency in this affair than to cause to be executed the decision which shall be made.

Accept, sir, the assurance of my high consideration.

LE DUC DE BASSANO.

Mr. RUSSELL, *Chargé des Affaires*, &c.

No. 6.

[Referred to in Mr. Russell's letter of July 15th.]

Mr. Russell to the Duke of Bassano.

PARIS, June 2, 1811.

By the letter which your Excellency did me the honor to address to me on the 25th ultimo, I

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perceive that the Minister of Marine declines interfering in the case of the American brig the Good Intent, except to enforce the decision which the Council of Prizes may render.

As the Good Intent was captured, bound to a port in the possession of the French armies, by a launch in the service of the French Government, I had persuaded myself that she would not be treated as a prize, but that she would be restored like the John and the Hare, at Civita Vecchia, without the delay of a formal trial. It was in this expectation, that I omitted to place her on the list of American vessels captured since the 1st of November last, which I had the honor to address to your Excellency in my note of the 11th ultimo. If His Majesty the Emperor should find it improper, upon being made acquainted with the circumstances of this case, to distinguish it from cases of ordinary capture, I presume there will be no objection to extending to it the benefit of any general decision which may be taken in regard to those mentioned in the list aforesaid.

I pray your Excellency to accept, &c.

JONATHAN RUSSELL.

His Exc'y the DUKE OF BASSANO.

No. 7.

[Referred to in Mr. Russell's despatch of July 15th.]

Mr. Russell to the Duke of Bassano.

PARIS, May 18, 1811.

On examining the list of vessels whose cargoes have been admitted, and which your Excellency did me the honor to enclose to me in a note dated the 4th of this month, I have discovered that the schooner Friendship has been omitted.

This vessel, as I am informed, arrived at Bordeaux on the 6th of December last with a cargo of coffee, which, from long detention, has suffered considerable damage. As there is no circumstance, within my knowledge, to distinguish the cargo of this vessel from those which have been admitted, I doubt not that her case will be inquired after, and that she will be placed upon the same footing as the others.

I pray your Excellency to accept, &c.

JONATHAN RUSSELL.

His Exc'y the DUKE OF BASSANO.

No. 8.

[Referred to in Mr. Russell's despatch of July 15th.]

Mr. Russell to the Duke de Bassano.

PARIS, June 10, 1811.

SIR: I conceive it to be my duty to represent to your Excellency that the condition attached to the admission of American property in France, to export two-thirds the amount in silks, is attended with great inconvenience and loss to the American merchant.

A general requisition to export the net proceeds of imported cargoes in the produce and manufactures of the French Empire, would have been so obviously intended to favor its industry, and to prevent any indirect advantage resulting to its enemy, by the remittance of exchange, that the right and the policy of the measure would have been universally acknowledged. The American

merchant, in this case, permitted to select from the various and abundant productions of the arts and agriculture of France, those articles which the habits and tastes of the American people demanded, might freely and advantageously have exercised his commercial skill for the advancement of his interests, and hoped, from the profit on his investments here, to obtain an indemnity for the losses on his outward voyage.

The condition, however, imposed on him to receive two-thirds of these investments in a *particular article* takes from him the faculty of profiting of his experience and information, either in bargaining for his purchases, or in adapting them to the wants of the market for which they are intended. The holder of this article becomes, by this requisition, the master, not only of the price, but of the kind and quality of his merchandise; and his interest will strongly incite him to abuse the power which he feels. He knows full well that the purchaser cannot dispense with this merchandise, and that sooner or later, he must accede to the terms on which it is offered. Should, indeed, the American merchant, from his repugnance to invest his funds in an article forced upon him, loaded with the arbitrary exactions of the seller, refuse for a while to receive it, yet, beholding these funds inactive and wasting on his hands, and his vessel perishing in a foreign port, he must eventually yield to the duress which he suffers.

Such are some of the evils to which the condition in question will expose the American merchant in this country. In the United States it will be by him still more severely felt.

The overstock of the article forced by this condition on the market there exceeding the consumption, must necessarily become a drug; and the American merchant, after having taken it here against his will, and paid for it more than its ordinary value, will be compelled in the United States to keep it on hand, or to sacrifice it for the most it will bring. Thus alternately obliged to purchase and to sell under unfavorable circumstances, he will have to add to the losses of the outward voyage the losses on the returns, and the sum of them both may amount to his ruin.

These disasters of the merchant must inevitably impair, if not extinguish, the commercial intercourse between the two countries. This intercourse, exposed to unusual perils, and oppressed with unprecedented burdens, has already nothing in the voyage hither to tempt the enterprise of mercantile men; and should it be embarrassed with the restrictions of this condition, rendering the homeward voyage also unprofitable, it must undoubtedly cease. It is in vain to expect the continuance of any branch of trade which, in all its relations, is attended with loss to those who are engaged in it.

I have taken the liberty respectfully to submit these observations to your Excellency, not without a hope that a consideration of them may lead to a remedy of the evils which they suggest.

I have the honor to be, &c.

JONATHAN RUSSELL.

Chargé d'Affaires U. S.

Relations with France.

No. 9.

[Referred to in Mr. Russell's despatch of July 15th.]

PARIS, July 13, 1811.

The Minister of Foreign Relations has the honor to inform Mr. Russell, Chargé des Affaires of the United States, that he will be happy to receive him at any time to-day, before two o'clock, if it should be convenient to him. He begs him to accept the assurance of his perfect consideration.

Mr. Serrurier to Mr. Monroe.

WASHINGTON, July 23, 1811.

SIR: The new dispositions of your Government, expressed in the supplementary act of the 2d of March last, having been officially communicated to my Court by the Chargé d'Affaires of the United States, His Imperial Majesty, as soon as he was made acquainted with them, directed that the American vessels, sequestered in the ports of France since the 2d of November, should be released. Their cargoes have been admitted, and some of them have departed, upon conforming with the municipal laws of the country; that is to say, by exporting wines, silks, and the products of French manufactures. Orders were to be given, at the same time, that all American vessels coming from the United States, and loaded with merchandise the growth of the country, should be admitted and received in all the ports of France.

I hasten, sir, according to the orders I have received, to make these dispositions known to your Government.

In order to prevent all difficulty in relation to the cargoes of vessels, the table indicating the merchandise of the growth of the United States has been prepared; and it has been thought that a rule could not be adopted more favorable and more sure, than the statement itself of the exportations made by the Americans during the year which preceded the embargo, viz: from the 1st of October, 1806, to 30th of September, 1807, a period during which your commerce of exportation was in full activity. I annex this table to my letter; coffee, sugar, and cocoa, are not included in this statement. These articles of merchandise have always been ranged in the class of colonial products; and whatever may be their origin, His Majesty, while favoring in his States many branches of culture, and many new establishments, with a view of supplying their place by indigenous productions, could not encourage indefinitely their exportation. Vessels arriving with permits, by means of which the importation of merchandise of this sort is authorized, will be admitted.

The introduction of tobacco is not prohibited. It forms the first object of culture of some of the States of the Union; and His Majesty, having an equal interest in the prosperity of all, desires that the relations of commerce should be common to all parts of the Federal territory; but tobacco is under an administration (*en régie*) in France; the administration is the only consumer, and can purchase only the quantity necessary for its consumption. It became necessary that measures should be taken upon this

subject, and they have been conformable to the common interest. Tobacco will be received in the ports of France, and placed in actual deposit (*en entrepôt réel*;) and if more arrives than the administration can purchase, the transit of the surplus will be permitted across France for Germany, and other States of Europe, in which the American merchants may find a sale for it.

All the vessels of the United States which may arrive in France will have to discharge the custom-house duties to which the merchandise they may bring is subject; and their return must be effected by exporting an equal value in French wines, silks, and other articles of French manufacture, in the proportions determined by the regulations.

Merchandise of the growth of the United States, composing the cargoes of American vessels, must be accompanied with a certificate of origin, delivered by the French Consuls of the port from whence the vessels departed.

I flatter myself, sir, that the communication of these dispositions of the Emperor in favor of American commerce will be as agreeable to your Government as it is to me to be the means of making it.

I have the honor, sir, to renew to you the assurance of my high consideration.

SERRURIER, *Minister of France.*MR. MONROE, *Secretary of State.*

Productions of the soil and of the manufactures of the United States, exported from the 1st of October, 1806, to the 30th of September, 1807.

Salt or smoked fish,	Buckwheat,
Dried or pickled do.,	Beans,
Whale and other fish oil,	Peas,
Whalebone,	Apples,
Spermaceti candles,	Potatoes,
Staves and headings,	Rice,
Shingles,	Indigo,
Hoops,	Tobacco,
Plank,	Flaxseed
Timber,	Hops,
Lumber of all kinds,	Wax,
Masts and spars,	Household furniture,
Manufactures of wood,	Coaches and other car-
Oak bark and other dyes,	riages,
Tar,	Hats,
Pitch,	Saddlery,
Rosin,	Boots,
Turpentine,	Shoes, silk, and leather,
Skins and furs,	Beer, porter, and cider
Ginseng,	in casks and bottles,
Beef,	Spirits from grain,
Tallow,	Starch,
Hides,	Candles,
Horned cattle,	Soap,
Pork,	Wax candles,
Hams and bacon,	Hair powder,
Lard,	Snuff,
Hogs,	Tobacco, manufactured,
Butter,	Bricks,
Cheese,	Essence of bark,
Pot and pearl ashes,	Linseed oil,
Horses,	Spirits of turpentine,
Mules.	Cards, wool, and cotton.

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Sheep,	Maple, and other brown
Poultry,	sugar,
Mustard,	Bar iron,
Cotton,	Nails,
Wheat,	Castings,
Flour,	Canvass and sail-cloth,
Rye meal,	Cables and cordage,
Buckwheat meal,	Spirits from molasses,
Biscuit or ship bread,	Refined sugar,
Indian corn,	Chocolate,
Indian meal,	Gunpowder,
Rye,	Copper, manufactured,
Oats,	Medicinal drugs.
Barley.	

True copy:

THE DUKE OF BASSANO,
Minister of Foreign Relations.

Mr. Monroe, Secretary of State, to Joel Barlow, Esq.
DEPARTMENT OF STATE, *July 26, 1811.*

SIR: It is the desire of the President that you should set out without delay for Paris, to commence the duties of the office of Minister Plenipotentiary to the Emperor of France, with which you are invested. A frigate, prepared for your accommodation, will receive you at Annapolis, and convey you to the most convenient port of the country. I enclose you a commission and letter of credence, with such other documents as are necessary to illustrate the subjects on which you will have to act.

With the ordinary duties of the office you are too well acquainted to require any comment on them in this letter. There are, however, some subjects of peculiar importance, which will claim your attention immediately after your reception. On these it is proper that you should know distinctly the sentiments of the President.

The United States have claims on France, which it is expected that her Government will satisfy to their full extent, and without delay. These are founded partly on the late arrangement by which the non-importation law of the 1st of May, 1810, was carried into effect against Great Britain, and partly on injuries to their commerce committed on the high seas and in French ports.

To form a just estimate of the claims of the first class, it is necessary to examine minutely their nature and extent. The present is a proper time to make this examination, and to press a compliance with the arrangement, in every circumstance, on its just principles, on the Government of France. The President, conscious that the United States have performed every act that was stipulated on their part with the most perfect good faith, expects a like performance on the part of France. He considers it peculiarly incumbent on him to request such explanations from her Government as will dissipate all doubt of what he may expect from it in future, on this and every other question depending between the two nations.

By the act of May 1, 1810, it was declared, that in case Great Britain or France should, before the 3d day of March, 1811, so revoke or

modify her edicts, as that they should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation; and if the other nation should not, within three months thereafter, revoke or modify its edicts in like manner, then the 3d, 4th, 6th, 7th, 8th, 9th, 10th and 18th sections of the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France," &c., should, from and after the expiration of three months from the date of the proclamation aforesaid, be revived, and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify its edicts in the manner aforesaid.

This act, having been promulgated and made known to the Governments of Great Britain and France, the Minister of the latter, by note bearing date on the 5th of August, 1810, addressed to the Minister Plenipotentiary of the United States at Paris, declared that the decrees of Berlin and Milan were revoked, the revocation to take effect on the first day of November following, but that this measure was adopted in compliance with the law of 1st May, 1810, to take advantage of the condition contained in it, and in full confidence that that condition would be enforced against Great Britain, if she did not revoke her Orders in Council, and renounce the new principles of blockade.

This declaration of the Emperor of France was considered a sufficient ground for the President to act. It was explicit as to its object, and equally so as to its import. The decrees of Berlin and Milan, which had violated our neutral rights, were said to be repealed, to take effect at a subsequent day, at no distant period; the interval apparently intended to allow full time for the communication of the measure to this Government. The declaration had, too, all the formality which such an act could admit of, being through the official organ on both sides; from the French Minister of Foreign Affairs to the Minister Plenipotentiary of the United States at Paris.

In consequence of this note from the French Minister of Foreign Affairs of the 5th August, 1810, the President proceeded, on the 2d November following, to issue the proclamation enjoined by the act of May 1st of the same year, to declare that all the restrictions imposed by it should cease and be discontinued in relation to France and her dependencies. And in confirmation of the proclamation of the President, Congress did, on the 2d March, 1811, pass an act whereby the non-importation system provided for by the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th sections of the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies," was declared to be in force against Great Britain, her colonies, and dependencies, with a provision in favor of such vessel or merchandises as might be seized before it was known that

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Great Britain had revoked or modified her edicts within the time and in the manner required by the said act, if such should be the case; and with a provision also in favor of any ships or cargoes owned wholly by citizens of the United States, which had cleared out for the Cape of Good Hope, or for any other port beyond the same, prior to the 2d day of November, 1810. Both of these provisions were, in strict justice and good faith, due to the parties to be affected by the law; they were also conformable to the spirit of the arrangement, to execute which the law was passed. As Great Britain did not revoke or modify her edicts in the manner proposed, the first provision had no effect.

I will now inquire whether France has performed her part of this arrangement.

It is understood that the blockade of the British isles is revoked. The revocation having been officially declared, and no vessel trading to them having been condemned or taken on the high seas that we know of, it is fair to conclude that the measure is relinquished. It appears, too, that no American vessel has been condemned in France for having been visited at sea by an English ship, or for having been searched or carried into England, or subjected to impositions there. On the sea, therefore, France is understood to have changed her system.

Although such is the light in which the conduct of France is viewed in regard to the neutral commerce of the United States since the 1st November last, it will, nevertheless, be proper for you to investigate fully the whole subject, and to see that nothing has been or shall be omitted on her part in future which the United States have a right to claim.

Your early and particular attention will be drawn to the great subject of the commercial relation which is to subsist in future between the United States and France. The President expects that the commerce of the United States will be placed in the ports of France on such a footing, as to afford to it a fair market, and to the industry and enterprise of their people a reasonable encouragement. An arrangement to this effect was looked for immediately after the revocation of the decrees; but it appears from the documents in this department, that that was not the case; on the contrary, that our commerce has been subjected to the greatest discouragement, or rather to the most oppressive restraints; that the vessels which carried coffee, sugar, &c., though sailing directly from the United States to a French port, were held in a state of sequestration, on the principle that the trade was prohibited, and that the importation of those articles was not only unlawful but criminal; that even the vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in unusual forms, and to exorbitant duties; in short, that the ordinary usages of commerce between friendly nations were abandoned.

When it was announced that the decrees of Berlin and Milan were revoked, the revocation to

take effect on the 1st of November last, it was natural for our merchants to rush into the ports of France, to take advantage of a market to which they thought they were invited. All these restraints, therefore, have been unjust in regard to the parties who suffered by them; nor can they be reconciled to the respect which was due to this Government. If France had wished to exclude the American commerce from her ports, she ought to have declared it to this Government in explicit terms; in which case, due notice would have been given of it to the American merchants, who would either have avoided her ports, or gone there at their own hazard. But to suffer them to enter her ports, under such circumstances, and to detain them there under any pretext whatever, cannot be justified. It is not known to what extent the injuries resulting from those delays have been carried. It is evident, however, that for every injury thus sustained the parties are entitled to reparation.

If the ports of France and her allies are not opened to the commerce of the United States on a liberal scale, and on fair conditions, of what avail to them, it may be asked, will be the revocation of the British Orders in Council? In contending for the revocation of those orders, so far as it was an object of interest, the United States had in view a trade with the Continent. It was a fair and legitimate object, and worth contending for while France encouraged it. But if she shuts her ports on our commerce, or burdens it with heavy duties, that motive is at an end.

That France has a right to impose such restraints is admitted; but she ought to be aware of the consequences to which they necessarily lead. The least that ought to be expected to follow would be, such countervailing restrictions on the French commerce as must destroy the value of the intercourse between the two countries, and leave to the United States no motive of interest to maintain their right to that intercourse, by a sacrifice of any other branch of their commerce. Adequate motives to such a sacrifice could only be found in considerations distinct from any reasonable pretensions on the part of France.

To the admission of every article, the produce of the United States, no objection is anticipated, nor does there appear to be just cause for any to the admission of colonial produce. A supply of that produce will be annually wanted in France and other countries connected with her, and the United States alone can furnish it during the war. It will doubtless be the interest of France and her allies to avail themselves of the industry and capital of the American merchants, in furnishing those articles by which the wants of their people will be supplied, and their revenue increased. Several of the colonies belonged to France, and may again belong to her. Great Britain, by securing to her own colonies, the monopoly of the home market, lessens the value of the produce of the conquered colonies. France cannot be indifferent to the distresses of her late

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colonies, nor ought she to abandon because she cannot protect them. In pressing this important object on the Government of France, it will not escape your attention, that several important articles in the list of colonial productions are raised in Louisiana, and will, of course, be comprised among those of the United States.

You will see the injustice, and endeavor to prevent the necessity, of bringing, in return for American cargoes sold in France, an equal amount in the produce or manufactures of that country. No such obligation is imposed on French merchants trading to the United States. They enjoy the liberty of selling their cargoes for cash, and taking back what they please from this country in return, and the right ought to be reciprocal.

It is indispensable that the trade be free; that all American citizens engaged in it be placed on the same footing; and, with this view, that the system of carrying it on by licenses granted by French agents be immediately annulled. You must make it distinctly understood by the French Government that the United States cannot submit to that system, as it tends to sacrifice one part of the community to another, and to give a corrupt influence to the agents of a foreign Power in our towns, which is, in every view, incompatible with the principles of our Government. It was presumed that this system had been abandoned some time since, as a letter from the Duke of Cadore, of —, to Mr. Russell, gave assurance of it. Should it, however, be still maintained, you will not fail to bring the subject, without delay, before the French Government, and to urge its immediate abandonment. The President having long since expressed his strongest disapprobation of it, and requested that the Consuls would discontinue it, it is probable, if they still disregard his injunction, that he may find it necessary to revoke their exequators. I mention this, that you may be able to explain the motive to such a measure, should it take place, which, without such explanation, might probably be viewed in a mistaken light by the French Government.

It is important that the rate of duties imposed on our commerce, in every article, should be made as low as possible. If they are not, they may produce the effect of a prohibition. They will be sure to depress the article and discourage the trade.

You will be able to ascertain the various other claims which the United States have on France for injuries done to their citizens, under decrees of a subsequent date to those of Berlin and Milan, and you will likewise use your best exertions to obtain an indemnity for them. It is presumed that the French Government will be disposed to do justice for all these injuries. In looking to the future, the past ought to be fairly and honorably adjusted. If that is not done, much dissatisfaction will remain here, which cannot fail to produce a very unfavorable effect on the relations which are to subsist in future between the two countries.

The first of these latter decrees bears date at

Bayonne, on the 17th of March, 1808, by which many American vessels and their cargoes were seized and carried into France; and others, which had entered her ports in the fair course of trade, were seized, and sequestered or confiscated by her Government. It was pretended, in vindication of this measure, that, as under our embargo law no American vessel could navigate the ocean, all those who were found on it were trading on British account, and lawful prize. The fact, however, was otherwise. At the time the embargo was laid, a great number of our vessels were at sea, engaged in their usual commerce, many of them on distant voyages. Their absence, especially as no previous notice could be given to them, was strictly justifiable under the law; and as no obligation was imposed on them by the law to return, they committed no offence by remaining abroad. Other vessels, inconsiderable in number, left the United States in violation of the law. The latter committed an offence against their country, but none against foreign Powers. They were not *disfranchised* by the act. They were entitled to the protection of their Government, and it had a right to inflict on them the penalty which their conduct had exposed them to. The Government of France could withdraw them from neither of these claims. The absence of none of these vessels was a proof that they were trading on British account. The cargoes which they carried with them, the value of which was much enhanced by the embargo, were alone an ample capital to trade on. As the pretext under which these vessels were taken is no justification of the act, you will claim an indemnity to our citizens for every species of injury arising from it.

The Rambouillet decree was a still more unjustifiable aggression on the rights of the United States, and invasion of the property of their citizens. It bears date on the 23d of March, 1810, and made a sweep of all American property within the reach of French power. It was also retrospective, extending back to the 20th of May, 1809. By this decree, every American vessel and cargo, even those which had been delivered up to the owners, by compromise with the captors, were seized and sold. The law of March 1, 1809, commonly called the non-intercourse law, was the pretext for this measure, which was intended as an act of reprisal. It requires no reasoning to show the injustice of this pretension. Our law regulated the trade of the United States with other Powers, particularly with France and Great Britain, and was such a law as every nation has a right to adopt. It was duly promulgated, and reasonable notice given of it to other Powers. It was also impartial, as related to the belligerents. The condemnation of such vessels of France or England as came into the ports of the United States, in breach of this law, was strictly proper, and could afford no cause of complaint to either Power. The seizure of so vast a property as was laid hold of under that pretext, by the French Government, places the transaction in a very fair light. If an indemnity had been sought for an imputed injury, the measure of the injury should

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have been ascertained, and the indemnity proportioned to it. But, in this case, no injury had been sustained on principle. A trifling loss only had been incurred, and for that loss all the American property which could be found was seized, involving in indiscriminate ruin innocent merchants who had entered the ports of France in the fair course of trade. It is proper that you should make it distinctly known to the French Government, that the claim to a just reparation for these spoliation cannot be relinquished, and that a delay in making it will produce very high dissatisfaction, with the Government and people of these States.

It has been intimated that the French Government would be willing to make this reparation, provided the United States would make one, in return, for the vessels and property condemned under, and in breach of, our non-intercourse law. Although the proposition was objectionable in many views, yet this Government consented to it, to save so great a mass of the property of our citizens. An instruction for this purpose was given to your predecessor, which you are authorized to carry into effect.

The influence of France has been exerted, to the injury of the United States, in all the countries to which her power has extended. In Spain, Holland, and Naples, it has been most sensibly felt. In each of these countries the vessels and cargoes of American merchants were seized and confiscated under various decrees, founded on different pretexts, none of which had even the semblance of right to support them. As the United States never injured France, that plea must fail; and that they had injured either of those Powers, was never pretended. You will be furnished with the documents which relate to these aggressions, and you will claim of the French Government an indemnity for them.

The United States have also just cause of complaint against France for many injuries that were committed by persons acting under her authority. Of these the most distinguished, and least justifiable, are the examples which occurred of burning the vessels of our citizens at sea. Their atrocity forbids the imputation of them to the Government. To it, however, the United States must look for reparation, which you will accordingly claim.

It is possible that, in this enumeration, I may have omitted many injuries, of which no account has yet been transmitted to this Department. You will have it in your power to acquire a more comprehensive knowledge of them at Paris, which it is expected you will do, and full confidence is reposed in your exertions to obtain of the French Government the just measure of redress.

France, it is presumed, has changed her policy towards the United States. The revocation of her decrees is an indication of that change, and some recent acts, more favorable to the commercial intercourse with her ports, the evidence of which will be found in the copy of a letter from her Minister here, of —, strengthens the pre-

sumption. But much is yet to be done by her to satisfy the just claims of this country. To revoke blockades of boundless extent, in the present state of her marine, was making no sacrifice. She must indemnify us for past injuries, and open her ports to our commerce on a fair and liberal scale. If she wishes to profit of neutral commerce, she must become the advocate of neutral rights, as well by her practice as her theory. The United States, standing on their own ground, will be able to support those rights with effect; and they will certainly fail in nothing which they owe to their character or interest.

The papers relative to the *Impetueux*, the *Revanche de Cerf*, and the French privateer, seized at New Orleans, will be delivered to you. They will, it is presumed, enable you to satisfy the French Government of the strict propriety of the conduct of the United States in all those occurrences.

The frigate which takes you to France will proceed to Holland, to execute an order from the Secretary of the Treasury relative to the interest due on the public debt. She will return to France to take Mr. Russell to England, and, after landing him, sail back immediately to the United States. The interval afforded by a visit to Holland will be sufficient to enable you to communicate fully and freely with the French Government on all the topics, to which it will be your duty to invite its attention, under your instructions. A short detention, however, would not be objected to, if you deemed it important to the interest of the United States.

I have the honor to be, &c.

JAMES MONROE.

Extract—Mr. Barlow to the Secretary of State.

PARIS, *September 29, 1811.*

I seize the first occasion to announce to you my arrival, though I have very little else to announce.

I landed at Cherbourg the 8th of this month, and arrived at Paris the 19th.

The Emperor has been residing for some time at Compeigne, and it unluckily happened that he set out thence for the coast, and for Holland, the day of my arrival here.

The Duke of Bassano, Minister of Foreign Relations, came the next day to Paris, for two days only, when he was to follow the Emperor, to join him in Holland. General Turreau and others, who called on me the morning after I reached Paris, assured me that the Duke was desirous of seeing me as soon as possible, and with as little ceremony.

On the 21st, I made my first visit to him, which, of course, had no other object than that of delivering credentials.

I expressed my regret at the Emperor's absence, and the consequent delay of such business as was rendered particularly urgent by the necessity of sending home the frigate, and by the approaching session of Congress, as well as by the distressed situation of those American citizens

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who were waiting the result of decisions which might be hastened by the expositions which I was charged to make on the part of the President of the United States.

He said the Emperor had foreseen the urgency of the case, and had charged him to remedy the evil, so far as could be done by dispensing with my presentation to His Majesty until his return, and that I might immediately proceed to business, as if I had been presented. He said the most flattering things from the Emperor relative to my appointment. He observed that His Majesty had expected my arrival with some solicitude for several months, and was disposed to do everthing that I could reasonably ask to maintain a good intelligence between the two countries.

The Duke then proposed a second interview for the next day, which he said he hoped would be long and leisurely, that we might go over the whole range of business that was likely to come into discussion between us, declaring that he should be justified by the Emperor in delaying his journey one day for that purpose only, and that he had no other business to detain him in the capital. I accepted the invitation, and was with him two hours the next day.

I explained to him, with as much precision as possible, the sentiments of the President on the most pressing objects of my mission, and threw in such observations as seemed to arise out of what I conceived to be the true interest of France.

He heard me with patience and apparent solicitude, endeavored to explain away some of the evils of which we complain, and expressed a strong desire to remove the rest. He said that many of the ideas I suggested were new to him, and were very important; that he should lay them before the Emperor with fidelity, and in a manner calculated to produce the most favorable impression; desired me to reduce them to writing, to be presented in a more solemn form; and endeavored to convince me that he doubted not our being able, on the return of the Emperor, to remove all obstacles to a perfect harmony between the two countries.

Extract—Mr. Barlow to the Secretary of State.

PARIS, October 29, 1811.

The Emperor stays in the North much longer than was expected. Having been assured by the Minister that he would return by the 15th of October; and that, during his tour, he would make no stay in any one place, I concluded, as I had the honor to state to you before, not to follow him. The frigate *Constitution* did not return from Holland until about the time that the Emperor was to have reached Fontainebleau; and, during the last fourteen days, the public have been in constant expectation of his arrival.

As the Minister of Foreign Relations, and, indeed, most of the other Ministers, are with him, it has not been in my power to bring forward, to advantage, any propositions on the great objects of my mission; for I was convinced, for reasons

mentioned in my first despatch, that these objects can be treated to the best advantage in presence, when frequent conversations can be mingled with formal official notes. My correspondence with the Minister, therefore, has been hitherto confined to incidental matters, not worth troubling you with.

It is now so fully believed that the Emperor will be here about the 10th of November; and it seems so important that something of a decisive nature should be communicated to you by the frigate, that it is thought best by Captain Hull, as well as myself, that she should go first over to Cowes with Mr. Russell, and return to Cherbourg for my despatches for you.

Extract—Mr. Barlow to the Secretary of State.

PARIS, November 21, 1811.

On the 9th of this month, the Duke of Bassano arrived in Paris, and signified his arrival by a circular to the foreign Ministers here. The next day, at 1 o'clock, I called at his house, having in my pocket the note dated the 10th November.

My intention was, if possible, to have an interview with him before he should read the note, to prepare his mind on some points, which, being new to him, might be susceptible of further development than it would be convenient to give in writing.

Not finding the Duke at home, I left the note, enclosing with it a written request for an interview, after he should have read the note. As yet, I have no answer; but, having met him once since, he assured me that a very great press of business occupied him every day at St. Cloud. He gave no other reason for the delay thus far; and I have learned, through other channels, that they are discussing in the Emperor's Councils of Commerce and of State the principal points in my note. If this discussion is in good earnest, I shall probably have an answer of some sort before many days.

[Enclosed in Mr. Barlow's letter, of November 21.]

Extract—Mr. Barlow to the Duke of Bassano.

PARIS, November 10, 1811.

For all these considerations, and others which I have had the honor to explain to your Excellency in conversation, I am confident that I shall urge nothing contrary to the true interests of France, when I propose that His Majesty the Emperor and King should order a prompt and effectual execution of the arrangement of the 5th August and 2d November, in the true and liberal spirit in which it was proposed; so that the privations which the United States imposed upon themselves, by excluding the productions of Great Britain and her dependencies, should, as far as circumstances will allow, be compensated by a free access to those of the continent of Europe, and that they may carry thither such means of purchasing those productions as their own soil and industry, those of other neutral nations, and those of the French colonies, will furnish.

Should His Majesty adopt this principle, the

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means of arriving at the end are so obvious, that it will not greatly add to the length of this note, if I here point them out. 1st. Let the American ships and cargoes now under seizure, capture, or sequestration, and the proceeds of such as have been sold which are now reserved for the party having right, be immediately restored to their owners, and they declared free to depart thither for their country. This article is not intended to embrace anything but genuine American property, as protected by the acknowledged law of nations.

2d. Such property, acknowledged to be American, as has been confiscated, and no longer in a state to be restored, will remain to be paid for in some manner the least onerous to the French treasury, to be determined on by a separate convention.

3d. A signification of His Majesty's pleasure, if such it be, to form a new commercial treaty with the United States, on principles of reciprocity, both with respect to the rate of duties, (as far as the different nature of the objects of our mutual commerce will permit,) and the facility of buying and selling, entering and departing, with such articles as shall be agreed on, the produce of their respective countries, colonies, territories, and dependencies.

One principal reason why a system of this kind has been deferred so long, has doubtless been the difficulty of distinguishing American from English property, and of ascertaining the origin of produce. We regret, as much as you can, the frauds that have been committed in this respect. Our honor, as well as interest, is concerned in suppressing them. We are ready to enact and inflict penalties, and agree with the French Government on the marks, signals, and other measures most proper to attain the end.

I beg your Excellency not to think it improper or indiscreet in me to close this note by suggesting a cogent reason for desiring as speedy an answer to the principal propositions as the other weighty concerns of your department will admit. The frigate which brought me to France is detained only for this answer. Congress is now beginning its session, and the President will be anxious to lay before it as early as possible the result of these propositions; and it has happened, unluckily, that my arrival here at the moment of the Emperor's departure has already occasioned a considerable loss of time.

Mr. Monroe to Mr. Barlow.

DEPARTMENT OF STATE, NOV. 21, 1811.

SIR: I have the honor to transmit to you a copy of the President's Message to Congress at the commencement of the session, and of the documents which accompanied it.

In this very interesting communication you will find that the President has done justice to both the belligerents. He has spoken of each as it deserves. To France he has given the credit due for the revocation of her decrees, while he has bestowed on those injuries which remain un-

redressed their merited censure. Of England he has spoken in terms of censure only, because she had in no respect changed her unfriendly policy. Thus the whole subject of our foreign relations is presented fully and fairly before the Legislature and the public; and, I am happy to add, that so far as an opinion can now be formed of the impression made, the public sentiment is in strict harmony with that expressed by the Executive. Few, if any, seem to be willing to relinquish the ground which has been taken by the non-importation act; and most seem to be resolved, if Great Britain does not revoke her Orders in Council, to adopt more decisive measures towards her.

If the United States experience any embarrassment in the course which they are pursuing in support of their rights, or fail in the ultimate success, it will be owing to the conduct of the French Government. It cannot be doubted, if France remains true to her engagement, by a faithful observance of the revocation of her decrees, and acquits herself on the various other points on which you are instructed to the just claims of this country, that Great Britain will be compelled to follow her example; in which event, the war will immediately assume a new character, such as has been the professed wish of both belligerents, mitigating its calamities to both of them, as well as diffusing the happiest effect on neutral States.

The part which France ought to act is a plain one. It is dictated in every circumstance by the clearest principles of justice and soundest maxims of policy. The President has presented to view, in the Message to Congress, the prominent features of this plan, by stating equally our rights and injuries. It will scarcely be necessary for me to go into any of the details, which are already so well known to you. I will briefly advert to them.

It is not sufficient, in the final decision of a cause brought before a French tribunal, that it should appear that the French decrees are repealed. An active prohibitory policy should be adopted to prevent seizures on the principles of those decrees. All that is expected, is, that France will act in conformity to her own principles. If that is done, neutral nations would then have an important object before them, and one belligerent, at least, prove that it contended for principle rather than for power; that it sought the aid of neutral nations in support of that principle, and did not make it a pretext to enlist them on its side to demolish its enemies. The abuses that are practised by French privateers in the Baltic, the Channel, the Mediterranean, and wherever else they cruise, have of late more especially reached an enormous height. In the Baltic they have been more odious, from the circumstance that it was expected that they had been completely suppressed there. Till of late, these abuses were imputed to the privateers of Denmark, which induced the President to send a special mission to the Danish Government, which it was understood was producing the desired effect. But it is now represented that the same evil is produced by a collusion between the privateers of Denmark and those of France.—

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Hence it assumes a worse character. To seizures equally unlawful is added, by carrying the causes to Paris, still more oppressive delays.

If the French Government is not willing to adopt the general rule alluded to in favor of American commerce, it is presumed that it will not hesitate to define explicitly the causes of seizure, and to give such precise orders to its cruisers respecting them, with an assurance of certain punishment to those who violate them, as will prevent all abuse in future. Whatever orders are given, it would be satisfactory to this Government to be made acquainted with them. The President wishes to know, with great accuracy, the principles by which the French Government intends to be governed in regard to neutral commerce. A frank explanation on this subject will be regarded as a proof of the friendly policy which France is disposed to pursue towards the United States.

What advantage does France derive from these abuses? Vessels trading from the United States can never afford cause of suspicion on any principle, nor ought they to be subject to seizure. Can the few French privateers which occasionally appear at sea make any general impression on the commerce of Great Britain? They seldom touch a British vessel. Legitimate and honorable warfare is not their object. The unarmed vessels of the United States are their only prey. The opportunities of fair prize are few, even should France maintain the British principle. Can these few prizes compensate her for the violation of her own principles, and for the effect which it ought and cannot fail to produce here?

Indemnity must be made for spoliation on American property under other decrees. On this subject it is unnecessary to add anything to your present instructions. They are detailed and explicit.

The trade by licenses must be abrogated. I cannot too strongly express the surprise of the President, after the repeated remonstrances of this Government, and more especially after the letter of the Duke of Cadore to Mr. Russell of the — last, informing him that that system would fall with the Berlin and Milan decrees, that it should still be adhered to. The exequators of the consuls who have granted such licenses would long since have been revoked if orders to them to discontinue the practice had not daily been expected, or, in case they were not received, the more effectual interposition of the Congress to suppress it. It will certainly be prohibited by law, under severe penalties, in compliance with the recommendation of the President, if your despatches by the Constitution do not prove that your demand on this subject has been duly attended to.

It is expected also that the commerce between the United States and France and her allies will be placed on the basis of a fair reciprocity. If the oppressive restrictions which still fetter and harass our commerce there are not removed, it cannot be doubted that Congress will, as soon as it appears that a suitable change may not be ex-

pected, impose similar restraints on the commerce of France. Should such a state of things arise between the two countries, you will readily perceive the obvious tendency, or rather certain effect, on the relations which now subsist between them.

This is a short sketch of the policy which it is expected France will observe in regard to neutral commerce and the other just claims of the United States. A compliance with it will impose on her no onerous conditions, no concession in favor of the United States. She will perform no act which she is not bound to perform by a strict regard to justice. She will abstain from none, the abstinence from which is not dictated by the principles which she asserts and professes to support. What is also of great importance, the course pointed out cannot fail to prove in all its consequences of the highest advantage to her.

Among the measures necessary to support the attitude taken by this Government, it is more than probable that a law will pass authorizing all merchant vessels to arm in their own defence. If England alone, by maintaining her Orders in Council, violates our neutral rights, with her only can any collision take effect. But in authorizing merchant vessels to arm, the object will be to enable them to support their rights against all who attempt to violate them. This consideration ought to afford a strong additional motive to France to inhibit her privateers from interfering with American vessels. The United States will maintain their neutral rights equally against all nations who violate them.

You will find among the documents which accompany the President's Message a correspondence between Mr. Foster and me, by which the difference relative to the attack on the Chesapeake is terminated. It was thought advisable not to decline the advance of the British Government on this point, although none was made on any other; and as the terms offered were such as had been in substance approved before, to accept them. The adjustment, however, of this difference does not authorize the expectation of a favorable result from the British Government on any other point. This Government will pursue the same policy towards Great Britain in regard to other injuries as if this had not been accommodated.

You will also find among the printed documents a correspondence with Mr. Foster respecting the Floridas. To his remonstrance against the occupation of West Florida by the troops of the United States, he was told that it belonged to them by a title which could not be improved. And to that relative to East Florida, he was informed that Spain owed the United States for spoliation on their commerce, and for the suppression of the deposit at New Orleans, more than it was worth; that the United States looked to East Florida for their indemnities; that they would suffer no Power to take it, and would take it themselves, either at the invitation of the inhabitants, or to prevent its falling into the hands of another Power. With so just a claim on it,

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and without any adverse claim which, under existing circumstances, is anywise sustainable, more especially as the necessary severance of the Spanish colonies from Old Spain is admitted, and the known disposition and interest of the inhabitants are in favor of the United States, the idea of purchasing the territory otherwise than as it has been already more than paid for in the property wrongfully taken from the citizens of the United States, does not merit, and has not received, a moment's consideration here. You will, therefore, discountenance the idea everywhere and in every shape.

You will be furnished with a copy of my correspondence with Mr. Serrurier on the subject of a vessel called the *Balaou* No. 5, (formerly the *Exchange*.) bearing a commission from the Emperor of France, lately libelled in the District Court of the United States for Pennsylvania. The decision of that court was in favor of a discharge of the vessel. An appeal was taken from it to the Circuit Court, by which the sentence was reversed. The cause was then carried by appeal, at the instance of the Government, to the Supreme Court of the United States, where it is now depending. The whole process in favor of the French Government is conducted on the part of, and at the expense of, the United States, without, however, making themselves a party to it.

This vessel is one of those that were seized under the Rambouillet decree. The French Government took her into service, as appears by the documents in possession of the commandant, and sent her with despatches to some distant quarter. She came into the port of Philadelphia, as it is said, in distress. She having on board a cargo, distress may have been a pretext. As this Government denies the justice of the Rambouillet decree, has remonstrated against, and expects an indemnity for losses under it, you will be sensible of the delicacy and difficulty which it has experienced in interfering in any respect in the case. To take the vessel from the court, and, of course, from the owner, and restore her to the French Consul or other agent, even if under any circumstances lawful, would have excited universal discontent. I cannot dismiss this subject without remarking, that if the Government of France had not violated the rights of the United States by the Rambouillet decree, this case would not have occurred; and that it is painful to see a question connected with the public law originate under such circumstances.

The public vessel which takes these despatches to you has others for our *Chargé d'Affaires* at London. After landing Mr. Biddle, who is the bearer of yours, at some port in France, she will proceed immediately to the English coast, and land Mr. Tayloe, the messenger who is charged with those for London. It is expected that she will be subject to a short delay only on the English coast, and that your despatches will be prepared for her on her return to France. It is highly important to this Government to obtain without delay, or rather with the greatest possible despatch,

correct information from you and from our *Chargé d'Affaires* at London, of the policy adopted, and the measures which have been already taken on the important interests depending with each Government, on which you have been respectively instructed. A short detention of the vessel for an obvious and useful purpose, as intimated heretofore, will not be objected to; but such a delay as has on some occasions occurred is utterly inadmissible. I have the honor to be, &c.

Extract—Mr. Barlow to the Secretary of State.

PARIS, *December* 31, 1811.

Since the date of my last, (November 21,) I have had many interviews with the Minister of Foreign Relations. I have explained several points, and urged every argument for as speedy an answer to my note of the 10th as its very serious importance would allow. He always treats the subject with apparent candor and solicitude, seems anxious to gain information, declares that neither he nor the Emperor had before understood American affairs in the light in which they now appear, and always assures me that he is nearly ready with his answer.

But he says the Emperor's taking so long a time to consider it and make up his decision is not without reason, for it opens a wide field for meditation on very interesting matters. He says the Emperor has read the note repeatedly and with great attention; that he told him the reasoning in it was every where just, and the conclusions undeniable; but to reconcile its principles with his continental system presented difficulties not easy to remove.

From what the Emperor told me himself at the last diplomatic audience, and from a variety of hints and other circumstances remarked among the people about his person, I have been made to believe that he is really changing his system relative to our trade, and that the answer to my note will be more satisfactory than I had at first expected. But the unexpected and unreasonable delay has almost discouraged me of late.

I am extremely anxious to despatch the frigate, and, had I imagined the delay would have been so great, I would not have ordered her to return after landing Mr. Russell in England. There is, however, a kind of consolation thus far; the captain writes me that had she been ready to sail three weeks ago, the weather has been such ever since that she could not have left the port by this time.

I hope, and am pretty certain now, that I shall despatch a messenger to Mr. Morris in five or six days at latest.

I send this by Mr. Odin, of Boston, by way of England. I have given him a passport, as bearer of despatches, and he goes by Morlaix without expense to the United States.

Extract—Mr. Barlow to the Secretary of State.

PARIS, *December* 31, 1811.

I have now the honor to send you the answer of the Duke of Bassano to my note of the 10th

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of November, accompanied with a triplicate copy of that note.

This answer, if understood in its most liberal sense, may doubtless be considered full and satisfactory, as a basis for the future commercial relations between the two countries; for we can ask nothing better than a perfect reciprocity of advantages in those relations. But although an official declaration of the Emperor's intention and readiness to conclude a treaty on such principles may be fairly taken as an adoption of the principles, yet, considering the irritation of the public mind in the United States arising from recent injuries, and the difficulty with which it can be brought to believe in a change of system so suddenly adopted and so vaguely announced, I thought it best to obtain, if possible, a more precise declaration as to certain points which had created so much difficulty.

Accordingly I asked an interview with the Duke for the 28th. I went to him on that day with a paper in my hand, of which I here enclose a translation.

My intention was to induce him to sign that paper, or the principles it contained, either in its present form or such other form as he might deem more consonant with the dignity of his Government, such as putting them into the answer to a letter which I might write him, if he should think that the most eligible method.

After we had read over the paper together, and I had explained the motive of my proposition, he replied that every one of those principles was adopted by the Emperor, and would enter into the treaty, and therefore it would be useless to announce them in a separate declaration. I endeavored to convince him of the advantages that would result to France, as well as to the United States, from an immediate restoration of confidence among the American merchants. The great want of flour in France as well as Spain, and the accumulation of French produce perishing on hand for want of foreign commerce, were sufficient reasons for seizing the first occasion, not inconsistent with the Emperor's general system, for giving activity to neutral capital in the ports of the empire.

He then copied the heads of my paper, and said he would lay the proposition before the Emperor, and give me an answer the next day. I did not, however, get this answer till last night. He then invited me to an interview, and, after reading over the paper as before, and commenting on every clause, he declared the Emperor's decision precisely to the following effect: "It is not proper for me to sign this declaration; but you may notify it to your Government, word for word, as if it were signed; for the principles are all adopted, and from this day forward they will be in operation. I have given the order to the chief of the Customs for what concerns his department; the Court of Prizes is ordered to expedite its part of the business, and I shall instruct the Consuls to give the certificates of origin. But you will observe this regards only the produce of the United States. Colonial produce cannot for the

present be admitted even in a French vessel, on a simple certificate of origin, without a special license."

I then desired him to cause one more order to be given from the proper department to the effect of repressing the rapacity of privateers. The Emperor owed it to his own dignity to order his courts to subject at least to cost and damages the owners of such privateers as should capture innocent ships without a pretext, a business that was long known to be carried on, as well it might be under the present system of certain impunity, with the sure prospect of a great deal of partial plunder, and the hope of an advantageous compromise with the claimants. He acknowledged that something ought to be done in the case.

His observation on colonial produce induced me to bring up again the subject of special licenses, repeating what I had often stated before, the just objection that the President had instructed me to insist upon against that system. He said that if the President desired it, it should be discontinued; but they had not yet been able to find a substitute. He declared to me, as he had often done before, that the Emperor would do anything on this subject that should be most agreeable to the United States, provided it did not open a door to the introduction of English produce.

He always insists upon it that the special licenses are a clear advantage, as far as they go, to the commerce and navigation of the United States. The system is an extension of favor to them, inasmuch as it relaxes the principle of the French navigation act, which confines the carrying trade of the colonies to French ships.

He added that the Emperor did not pretend that this was out of pure friendship for the Americans. "We have need of coffee and sugar. We can get our supply in this way; but if you can point out another that shall be more agreeable to the President without giving us the produce of English colonies, we shall adopt it."

Thus I think, sir, you have the whole idea before you. And I should be glad to receive your further instructions on the subject.

Should it be the intention of the President that I should proceed in the treaty of commerce, it will be necessary likewise to give me instructions, as precise as may be, on all the essential points that you wish to enter into it.

[Referred to in Mr. Barlow's letter of 31st December.]

The Duke of Bassano to Mr. Barlow.

PARIS, December 21, 1811.

SIR: I have the honor to announce to you that His Majesty the Emperor, by a decision of the 12th of this month, has ordered to be placed at the disposition of their Government twenty-three Americans, whom the town of Dantzic had, by mistake, comprised in a levy of sailors it had to furnish to France. These sailors had been sent to Antwerp, and afterwards to Rochefort; and these successive removals having rendered impracticable the immediate proof of their citizenship, every decision on that subject was necessarily deferred. The usage is to deliver to the near-

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est Consul those who are claimed by his Government; therefore, the twenty-three American sailors could not be sent directly from Rochefort to Cherbourg as you desired, but the Minister of Marine has directed the Maritime Prefect of Rochefort to have them struck off the rolls, and to send them to Rochelle, there to be put at the disposition of the Consul of the United States.

I hasten, sir, to apprise you of this, and I have the honor to renew the assurance of my high consideration.

THE DUKE OF BASSANO.

[Referred to in Mr. Barlow's letter of 31st December.]

The Duke of Bassano to Mr. Barlow.

PARIS, *December 27, 1811.*

The undersigned, Minister of Foreign Relations, has laid before His Majesty the Emperor and King the note which Mr. Barlow, Minister Plenipotentiary of the United States of America, addressed to him on the 10th of last month.

If, since the revocation of the decrees of Berlin and Milan, the commerce between France and the United States has had but little activity, the cause must be sought for in the outrages which the British Government has exercised against the flag of the United States, and against the French flag, and in the cruises (*croisières*) which it has established on the ocean, and on the Mediterranean, on the coast of France, and on those of America.

The undersigned has in his bureau a memorandum of a great number of American vessels taken at the entrance of the rivers of France; and the English papers every day mention that these vessels are condemned and delivered up to the captors, for having violated the blockade of 1806, or other orders of the British Council.

Those American vessels which have escaped the enemy, and have entered the ports of France, have sold their merchandise to advantage; have taken return cargoes, and realized a profit on them, notwithstanding the enormous insurance they have been obliged to pay on account of the risk they run from British cruisers.

If the flag of the United States was respected, if it enjoyed the rights guaranteed to the navigation of neutrals by the law which has existed from time immemorial on this subject, and of which the Treaty of Utrecht has specially recognised the principles, the commerce between the two countries would have its full development, and the relations of the citizens of the United States with the empire would open to their active sources of considerable profit.

In fact, the tariff of the 5th of August established duties which are paid by the consumers, and which can have no other influence than on the price of the articles. The duties of two hundred or three hundred per cent., laid in England on wines, on teas, and on many other articles for a long time past, are, in like manner, nothing more than duties of consumption, which have no other effect than to raise the price, without in any manner injuring the commerce in them.

The merchants of the United States are not

subjected in France to any duties, or to any obligations that are not equally imposed on French commerce, of which they moreover partake all the advantages. And whilst, in the United States, cargoes imported in French vessels pay ten per cent. more than if they had been imported in American vessels, the flag of the United States is treated in France as the Imperial flag.

Nevertheless, a treaty of commerce, bottomed on the principle of a perfect reciprocity, could not fail to be entirely advantageous to both countries. The undersigned is authorized to negotiate, conclude, and sign such a treaty. It is with a lively satisfaction that he makes known to the Minister Plenipotentiary of the United States the intentions of His Majesty on this important object. The United States will be entirely satisfied on the pending questions, (*questions actuelles*.) and there will be no obstacle to their obtaining the advantages they have in view, if they succeed in making their flag safe.

The undersigned has the honor to renew to Mr. Barlow, Minister Plenipotentiary of the United States, the assurances of his high consideration.

THE DUKE OF BASSANO.

[Referred to in Mr. Barlow's despatch of December 31.]

The Minister Plenipotentiary of the United States and the undersigned Minister of Foreign Relations, being respectively authorized and now ready to negotiate and conclude a treaty of commerce between the two countries, and as several months must elapse before such a treaty can be completed and ratified, during which time their commercial interests may suffer loss from the uncertainty now existing in the United States relative to certain points that are intended to enter into that treaty, the undersigned declares it to be the Emperor's pleasure, that, in this interval, the commerce of the United States, in their own produce and that of the French colonies, shall be free in his ports; that is to say, the formalities necessary to prove the property and origin of the goods shall be as simple and expeditious as the nature of the cases will permit.

No cause whatever shall warrant the capture or detention of an American vessel at sea, or her seizure in a French port, or in any other port, by French authority, but a well-grounded suspicion of forgery in her papers.

No other papers shall be required but the passport and clearance by the American authorities, and a certificate of origin by a French Consul; and the French Consuls in the United States are ordered to give such certificates.

His Majesty will cause the liberation of all the remaining ships and cargoes, now in his ports, belonging to American citizens, as fast as the necessary inquiries now going on shall prove them to be such.

Mr. Barlow to the Secretary of State.

PARIS, *January 4, 1812.*

SIR: Though Mr. Morris has been gone thirty six hours, I send this by the mail, to take its

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chance of reaching Cherbourg before the sailing of the frigate, just to say that Mr. Biddle, the messenger by the *Hornet*, has reached me. I have scarcely had time to open the packets, but shall lose no time in obeying your instructions, as far as I am able, as soon as I find what they are; and I hope not to detain the *Hornet* after her return from England.

With great respect and attachment, your obedient servant,
J. BARLOW.
The Hon. the SECRETARY OF STATE.

The Duke of Bassano to Mr. Barlow.

PARIS, *January 8, 1812.*

SIR: You did me the honor to apprise me, on the 15th of December, that a certain number of Americans, making part of the crews of different vessels captured and carried into our ports, found themselves detained in France as prisoners of war. Evidence taken on their persons, and on board the vessels in which they served, denotes that eight among them have been seized under a neutral flag; those named Joel Wicker, Judah Swift, and Herman Dickinson, served on board the American ship *Friendship*; Littleton Addison, William Banks, Martin Kelly, and Richard Miller, belonged to the American ship *Spanish Lady*; and John Beadley to the Pappenburg vessel, the *Catharine*.

His Majesty the Emperor, upon the report which I have presented to him, has ordered that these eight seamen, whatever may have been the causes of the capture of their vessels, be placed at the disposition of their Government.

The ancient decisions applicable to all seamen making part of the crew of an enemy vessel, whatever may be their citizenship (*nationalité*) do not permit to be extended to American seamen, found under such circumstances, the friendly measure of which I have the honor to inform you.

Accept, sir, the assurances of my high consideration, &c.

THE DUKE OF BASSANO.

Extract—Mr. Barlow to the Secretary of State.

PARIS, *January 28, 1812.*

In consequence of the note of the Minister of Foreign Relations, (of which I had the honor of sending you a copy by the frigate, and now send another copy,) announcing that he was authorized to negotiate and sign a treaty of commerce on principles of perfect reciprocity, I had some personal conferences with him on the nature of those principles. I then drew up the project of a treaty and sent it to him on the 17th instant.

I have reason to presume that, in a short time, say three or four weeks, the work may be finished, and the treaty ready to be submitted to the President. This being a matter of so much importance in itself, so essential, when finished, to have it despatched as soon as possible, by the safest and swiftest conveyance, and so improbable that at the time contemplated I shall be able to find any such conveyance but by a public ship, that I have concluded to detain the *Hornet*.

Having ventured on this resolution, I am now anxious to impart it to you, with the copies above mentioned, as soon as possible, and for this purpose I send the *Hornet* with this despatch to England, desiring Mr. Russell to forward it with such expedition and safety as may be in his power, as none can be had at present from this country.

The affair of the *Acastus*, now terminated, will be at least one more proof that the obnoxious decrees are in good faith annulled.

The ship *Acastus*, Captain Cottle, loaded with tobacco, and bound from Norfolk to Tonnigen, was boarded by an English frigate, and afterwards taken by a French privateer and brought into Fécamp, for the fact of having been thus boarded. As soon as the Emperor was informed of this, by my letter of the 2d of December to the Duke of Bassano, he ordered the ship and cargo to be restored to her owner; all of which I have had the honor to state to you, and I now state it to Mr. Russell.

Extract—Mr. Barlow to the Secretary of State.

PARIS, *February 8, 1812.*

Having an opportunity to send to London, which cannot be entirely relied upon for safety, I shall do little more than send you a copy of my last despatch.

Since its date I have had several conversations with the Minister of Foreign Relations relative to the progress of the treaty. He is at work upon it, and probably in good earnest; but the discussions with Russia, and the other affairs of this continent, give him and the Emperor so much occupation, that I cannot count upon their getting on very fast with ours.

But he endeavors to assure me that it shall not suffer much delay, and that most of the essential points that I insist upon will be agreed to. These declarations, however, are not sufficiently precise to be relied upon.

The *Hornet* sailed from Cherbourg the 1st of February, and may be expected back in a few days.

Extract—Mr. Barlow to the Secretary of State.

MARCH 3, 1812.

The *Hornet* returned to Cherbourg the second time about the 15th of February, where she yet remains, and where I am under the painful necessity of detaining her still longer, or of sending her home without the treaty. The alternative is disagreeable, but I do not hesitate under all circumstances, to detain her. It is in the hope that we shall bring the affair to a conclusion, in time for her to arrive with the treaty, before Congress will adjourn.

Be assured that I spare no pains and omit no argument in urging forward this business.

Mr. Russell has written me again for additional proof of the removal of the decrees. I have the honor to enclose to you a copy of my answer to him of yesterday, which I shall send by the same ship that takes this despatch, (the *Neptune*, of New York.) The Captain, Hopkins, has pro-

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mitted to put the messenger, Mr. Freat, of South Carolina, on shore in England, without expense to the Government.

[Referred to in Mr. Barlow's despatch of March 3.]

Mr. Barlow to Mr. Russell.

MARCH 2, 1812.

It seems from a variety of documents that I have seen, and, among others, the decision of Sir William Scott, in the case of the ship *Fox*, that the British Government requires more proof of the effectual revocation, by the French Government, of the Berlin and Milan decrees. Though it is not easy to perceive what purpose such additional proof is to answer, either for obtaining justice, or for showing why it is refused, yet I herewith send you a few cases in addition to what have already been furnished.

Among those I believe you will find such as will touch every point that was contemplated in those decrees, to prove them all to have been removed. If not, and still further proof after this should be deemed necessary, I can doubtless furnish it; for the subject is not exhausted, though your patience may be.

1st. The schooner *Fly*, Adams, of and from New York, loaded with cotton, sugar and coffee, bound to St. Petersburg, taken by an English cruiser, and carried into Cowes, thence released, came into Havre, declared the facts as above, entered, sold her cargo, reloaded with French goods, and departed without molestation.

2d. The brig *Anna Maria*, of and from New York, D. Campbell, master, bound to a port in France, loaded with pot-ash, cotton, and staves, put into Falmouth, then came to Morlaix, entered, sold, bought, reloaded, and departed, as above.

3d. The ship *Neptune*, Hopkins, bound from London to Charleston, in ballast, taken, brought into Dieppe, restored by a decree of the Emperor, and departed again in ballast.

4th. Ship *Marquis de Someruelos*, with indigo, fish, and cotton, bound to Civita Vecchia, boarded by a British frigate, arrived at her port, declared the fact, entered, sold, and is now reloading for the United States.

5th. Ship *Phœbe*, from Boston to Civita Vecchia, colonial produce, boarded as above, arrived, entered, sold, and is now reloading for departure.

6th. Ship *Recovery*, from Boston, with pepper, boarded, arrived, entered, and treated as above at the same place; now selling her cargo.

7th. Brig *Star*, bound to Naples, with colonial produce, taken and carried into Toulon, for having touched at Gibraltar, under pretence of a violation of the decrees, and restored by the Emperor, on the express ground that the decrees no longer existed, as applicable to the United States.

It would be wrong to allege that any of these vessels were protected by special licenses. In the first place, only three of the seven had licenses; those were the *Fly*, the *Phœbe*, and the *Recovery*. 2dly, It is well known that licenses are not, and never were given as protections against the effects of those decrees. The object of the licenses given to vessels of the United States is

distinctly defined to be merely to guard against false papers, and to prove the regularity of the voyage. They are used only for colonial produce, and not at all for the produce of the United States; and we see, in every instance, that a vessel loaded wholly with produce of the United States, or in ballast, is respected by the Government here. At least, I know it has been so in every instance since my arrival, in September last; and there have been, I doubt not, thirty or forty such vessels in France within that period. But a vessel loaded with colonial produce, and sailing without a license, would be certainly confiscated, whether she had violated the supposed decrees or not. Indeed, the regulation about licenses is not a maritime regulation, and it has nothing to do with neutral rights. It is, strictly speaking, a relaxation of the French navigation act, in favor of such particular persons as obtain them, to enable such persons to bring goods of an origin foreign to the United States into France.

It is the same as if a vessel of the United States should, by a special relaxation of the English navigation act, obtain a license to bring Brazil sugars or French wines into England. Such a license would surely not be considered as a breach, on the part of England, of our neutral rights; neither would it be a breach of such rights to confiscate our vessels carrying such articles into England without a license. The violation of the navigation law, either of France or England, is not a neutral right, and therefore the punishment of such violation is not a breach of neutral right.

I have taken the liberty to be thus particular on this head, because, in several instances during the discussion with the Ministers of the British Government, I have seen a disposition in them to confound with the French maritime decrees not only this affair of special licenses, but several regulations merely fiscal and municipal, bearing no relation to neutral rights or to the decrees in question.

I will terminate this statement by repeating the solemn declaration that I made to you, in my letter to you of the 30th January, (and there is no impropriety in the repetition, since a greater length of time has given a wider scope to the declaration,) that, since my arrival in September last, there has not been a single instance of the application of the Berlin and Milan decrees to an American vessel or cargo, and that I have not heard of their having been so applied since the 1st of November, 1810; though many instances have occurred within that period in which they must have been so applied had they been in vigor.

It is difficult to conceive, probably impossible to procure, and certainly insulting to require, a mass of evidence more positive than this, or more conclusive to every unprejudiced mind.

J. BARLOW.

Extract—Mr. Barlow to the Secretary of State.

PARIS, March 15, 1812.

I have scarcely been able to get an interview with the Duke of Bassano for the last fifteen days,

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though he has appointed several. He has disappointed me in most of them, and I am sure with reluctance. Last evening I obtained a short audience, in which he declared that his great work of this continent was now finished, and he would be able after to-morrow to devote himself very much to the treaty with the United States, till it should be completed. And I left him rather with the hope, than the full expectation, that he will have it in his power to keep his promise.

Extract—Mr. Barlow to the Secretary of State.

PARIS, March 16, 1812.

Since I had the honor of writing to you, yesterday, the *Moniteur* has come out with the *senatus consultum* of which I spoke. This I now enclose. This despatch goes by a safe hand for Bordeaux, there to be confided to some passenger, to go by one of our fast sailing schooners. You will notice that the Minister in his report, says nothing particular of the United States, and nothing more precise than heretofore of the revocation of the decrees.

This furnishes an additional motive for using all my efforts to get the treaty through, carrying with it an unequivocal stipulation that shall lay that question at rest. Its importance is surely sufficient to warrant my detaining the Hornet.

The Emperor did not like the bill we have seen before Congress, for admitting English goods contracted for before the non-importation law went into operation.

I was questioned by the Duke of Bassano on the bill, with a good deal of point, when it first appeared; and I gave such clear and decided explanations, as I thought at the time would remove all uneasiness. But I have since heard that the Emperor is not well satisfied. If Congress had applied its relieving hand to individual cases only, and on personal petitions, it would have excited no suspicions.

In consequence of my repeated remonstrances in cases of condemnation of American cargoes, on frivolous or false pretences, I think the career is somewhat arrested, and they now show a disposition to revise the judgments. The *Betsey*, the *Ploughboy*, and the *Ant*, are ordered for revision. The *Belisarius* is in progress, and is likely to be liberated, as you will learn by the correspondence I now have the honor to enclose respecting that case.

[Enclosed in Mr. Barlow's despatch of March 16.]

Mr. Barlow to the Duke of Bassano.

FEBRUARY 6, 1812.

MY LORD: I understand that the brig *Belisarius*, of New York, Captain Lockwood, and her cargo, is about to be confiscated, after report made to His Majesty, because this vessel and her cargo are liable to the decree of Milan of the 17th December, 1807.

As I know positively that this American vessel left New York the 17th of June, 1811, seven months after the revocation of the decrees of Milan and Berlin, laden with permitted articles,

the produce of the soil of the United States, I am unable to account for this decision, without attributing it to an error of date committed in the report, in which it is possible that the year 1810 has been taken for the year 1811.

I take the liberty, therefore, to submit this remark to your Excellency, well persuaded, if there has been an error in the report, the justice of His Majesty will order a revision of the affair.

I pray your Excellency, &c.

JOEL BARLOW.

His Exc'y the DUKE OF BASSANO, &c.

[Referred to in Mr. Barlow's despatch of March 16.]

Mr. Barlow to the Duke of Bassano.

PARIS, March 13, 1812.

The undersigned, Minister Plenipotentiary of the United States, has the honor to transmit, herewith enclosed, to His Excellency the Duke of Bassano, Minister of Foreign Relations, copies of the protests of Thomas Holden, master of the American brig *Dolly*, of New York, and Stephen Bayard, master of the American ship *Telegraph*, of New York, by which His Excellency will learn that these vessels have been met with at sea by His Imperial and Royal Majesty's ship the *Medusa*, Captain Ravel, and the *Nymph*, Captain Plassaw, who, after having plundered them of a part of their cargoes, destroyed the remainder by burning the ships.

It is a painful task to the undersigned to be obliged so frequently to call the attention of His Excellency to such lawless depredations. It appears to him that, in the whole catalogue of outrages on the part of the belligerents, of which the United States have such great and just reason to complain, there are none more vexatious and reprehensible than this.

Upon what ground can such spoliations be justified? Will it be alleged that the destruction of these vessels was necessary, in order to prevent their carrying information to the enemy, and thereby endanger the safety of these frigates upon a trackless ocean? This would be a poor defence. After boarding these peaceful traders, they might easily have led their course South, when they intended to go North. They could even have maintained their assumed character of British ships, under which, it seems, they began the commission of these flagrant acts, and thus have prevented all information of their cruising in those latitudes.

But it appears that plunder, and not safety, was the object for which they have thus disgraced the Imperial flag. For His Excellency will probably have learned from Brest, where the frigates entered, that the twenty boxes of spices and other articles taken from the *Telegraph* were smuggled on shore, and, it is said, were sold for the benefit of the equipage of the *Medusa*.

Thus is the property of citizens of the United States seized, condemned, and sold, by the officers in the Imperial navy, who become at once captors, judges, and vendors of the property of unoffending neutrals. Such disgraceful violations of every principle on which nations consent to live

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in peace ought never to go unpunished, and, surely, in this case they will not.

The undersigned, therefore, most earnestly calls on His Excellency the Minister of Foreign Relations, as the official guardian of public right, to lay a statement of this outrage before His Majesty, in such a point of view as shall produce a speedy compensation to the captains Holden and Bayard, and the owners of the ships and cargoes, for the losses they have sustained; and His Majesty will doubtless take measures to avenge the dignity and signalize the justice of his Government by punishing such a crime in a manner to prevent its repetition.

The valuation of the Dolly and her cargo, and of the Telegraph and her cargo, is herewith enclosed; the delay in obtaining these valuations has retarded for some weeks the presentation of this letter; and the undersigned cannot but indulge the hope that His Excellency will now give as early attention to the whole of the case as its importance manifestly demands.

The undersigned begs His Excellency, &c.
JOEL BARLOW.

[Enclosed in Mr. Barlow's despatch of March 16.]

The Duke of Bassano to Mr. Barlow.

PARIS, *March 15, 1812.*

SIR: I have the honor of informing you that the case of the ship *Belisarius* was terminated, and that I had advised the Minister of Commerce of the intentions of His Majesty.

It having been ascertained, on the first examination of this affair, that the ownership (*le pour-compte*) of a great part of the cargo was not proven; and this irregularity, as well as the insufficiency of the papers on board, being a formal contravention of the rules of navigation generally adopted and established at all times, the decision to which this part of the cargo might be liable had at first extended beyond it. But on a circumstantial report, which I had the honor of presenting to the Emperor, His Majesty, who likes to carry into the examination of all the affairs on which you address me friendly dispositions, has ordered that the different questions which were submitted to him should be separated, to the end that a decision may be had in the first place on those which present themselves under the most favorable aspect.

In consequence, sir, the vessel and the part of the cargo of which the ownership (*le pour-compte*) is proven, will be given up to the proprietors; and as to the other articles of the cargo, which are not accompanied with the same kind of proof, the necessary time and facilities will be given to establish the fact of their being American property, conformably to the ancient rules.

Accept, sir, the assurance of my high consideration.
THE DUKE OF BASSANO.

Extract—Mr. Barlow to Mr. Monroe.

PARIS, *April 22, 1812.*

I am obliged at last to dismiss the *Hornet* without the expected treaty, which I should have regretted more than I do, if your despatches, which

I have had the honor to receive by the *Wasp*, had not somewhat abated my zeal in that work.

It really appeared to me that the advantages of such a treaty as I have sketched would be very great, and especially if it could be concluded soon.

It is true that our claims of indemnity for past spoliations should be heard, examined, and satisfied, which operation should precede the new treaty, or go hand in hand in it. This is dull work, hard to begin and difficult to pursue. I urged it a long time without the effect even of an oral answer. But lately they have consented to give it a discussion; and the Minister assures me that something shall be done to silence the complaints, and on principles that he says ought to be satisfactory. I shall not venture to detain the *Wasp* more than two or three weeks, and I hope by that time to have something decisive to forward by her.

From some expressions in your letters, I am in hopes of receiving soon some more precise instructions on these subjects.

My communication with England by Morlaix is almost entirely cut off. It is not so easy to send to London, unless by one of our own public ships, as it is to the United States. I now send your despatches and my own to Mr. Russell, by a messenger in the *Hornet*, whom I shall desire Captain Lawrence to put on shore, or into a pilot boat, on the coast of England.

This messenger, with Mr. Biddle, will leave Paris this night for Cherbourg, where the *Hornet* is ready to receive them.

DENMARK.

[Communicated to Congress by the President's Message of November 5, 1811.]

Mr. Erving, Minister of the United States at Copenhagen, to the Secretary of State.

COPENHAGEN, *June 23, 1811.*

SIR: Having had my audience of His Danish Majesty on the 5th inst., on the 6th I addressed to Mr. De Rosenkrantz, Minister of State for Foreign Affairs, a note upon the subject of American cases, generally, then under adjudication by appeal before the High Court of Admiralty; and, on the 7th, a separate note respecting the cases of capture under British convoy: copies of those two notes, (A and B,) and the lists to which they refer, I have the honor herewith to submit. In an interview which I had with the Minister on the 8th instant, in the course of conversation, he told me that, as the matter of both those notes was very important, and the latter particularly required a great deal of consideration, he must have them perfectly translated into the Danish language, to be laid before the King; therefore I must not expect very prompt replies; but, in the meantime, that he was sincerely desirous of doing, and would do, everything in his power to forward our business towards a favorable termination. I suppose that the convoy question may be referred to His Majesty's Chancery, which is the highest

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tribunal, and that by which the King is accustomed to declare his will in matters which he does not submit to, or chooses to take out of the ordinary course of proceedings.

Having now fully informed myself of the business entrusted to me, it is with very great satisfaction that I find myself authorized to state to you that the evils which our commerce has suffered here, though very considerable, yet have not been quite so extensive as has been generally believed; and you will learn also, with particular pleasure, that the depredations of the Danish privateers have been discontinued since my arrival. I have prepared lists and statements, with a view to place the whole matter before you in the most particular, and at the same time most distinct and simple form. These will be completed when I have received returns from Norway and from Holstein respecting the fate of some few of the cases which occurred in the year 1809; in the meantime I can state the results to be nearly thus:

Captures in 1809, thirty-eight; condemnations in 1809, twelve.

Captures in Norway in the year 1810, thirty-six; of which are pending in the High Court, eight; and not one has been finally condemned.

Captures in Holstein, Sleswick, and the Danish islands, in 1810, sixty-eight; condemned twenty-two; pending, six.

Convoy cases in the year 1810, eighteen; condemned, eight; pending, ten.

Total amount of captures in 1809 and 1810, one hundred and sixty; total amount of condemnations, forty-two; of which were vessels which had broken the embargo or non-intercourse, or are otherwise not genuine American cases, sixteen; pending cases, including ten convoy cases, twenty-four.

In this year the only two vessels which reached these seas from the United States previous to my arrival were taken (in the beginning of April) and condemned in Norway; two others, just about the time of my arrival, were carried in, and are now under trial there; but, since the 11th instant upwards of forty vessels from the United States have passed through the Sound and gone up the Baltic, and, more or less, are every day passing without interruption. The papers of some few have been slightly examined in the subordinate court of Elsinour. There have been tried in the lower Prize Court of this place, and acquitted without delay, two or three; one of them with damages against the captors, being the first case in which damages have been given at Copenhagen. Finally, of the fourteen cases (not convoy cases) which were pending before the High Court on my arrival, four have been acquitted. And though the privateersmen, and all concerned with them, (and the ramifications of their business are immense,) have made every effort to bring on condemnations, yet the tribunal, otherwise perhaps well disposed to proceed, has been steadily held back by the Government, and I see the best reason to hope that at least eight of the remaining ten cases will be acquitted. As to the

convoy cases, my confidence is not so strong, yet even of them I do not despair. The ground on which they stand, I am aware, is not perfectly solid, yet I do not feel myself authorized to abandon them, and therefore have taken up an argument which may be difficult, but which I shall go as far as possible in maintaining.

I have had several interviews with Mr. De Rosenkrantz subsequent to that last mentioned, and have acquired additional reasons to hope for the King's perseverance in the change of system which has so happily taken place; but he discourages any expectation of indemnification for the injuries sustained by our commerce under that which appears now to be relinquished. Yesterday he told me very explicitly that against the definitive decisions of the High Court I must not hope for any redress. He trusted that, for the future, we should not have any cause to complain, but for the past there was no remedy. I thought it not opportune to enter much into the matter at that time, and therefore contented myself with some general protestations against his doctrines.

I cannot close this letter without acknowledging the very great services of Mr. Isaacksen, our Consul at Christiansand. You will observe, sir, in the lists which I shall send to you, that, of thirty-six vessels carried into the ports of Norway in the year 1810, only four were condemned in the inferior courts of that district. This has been wholly owing to the unwearied exertions of Mr. Isaacksen. He found our people in the most distressed situation, entirely friendless in the hands of, surrounded by, and ready to be sacrificed to, the rapacity of the privateersmen and their connexions. He volunteered in their service; he boldly opposed himself to the host of their oppressors; he made each man's cause his own; he provided for every man's wants; in short, his intrepidity and independence, and disinterestedness of character, his constant zeal and industry, saved them from ruin; and with gratitude, very honorable to themselves, they never ceased to praise him. With entire respect, &c.

GEORGE W. ERVING.

[Referred to in Mr. Erving's despatch of June 23.]

A.

Mr. Erving to Mr. De Rosenkrantz.

COPENHAGEN, June 6, 1811.

SIR: It was under the fullest conviction and strongest sense of the injustice which has prevailed in the sentences of the Danish tribunals on cases of American captures, as well as an anxiety immediately to arrest the course of those excesses on the part of the privateers too much countenanced by such decisions, which are laying waste the property of American citizens, that I ventured on the 31st ultimo, and on the 2d instant, to request that the proceedings of the tribunals should be suspended, until, having had the honor of presenting my credentials to His Majesty, I should be enabled to enter into regular communication with your Excellency.

In this first formal address to you upon the subject of the reclamations with which I am

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charged, it is incumbent upon me to express the extreme surprise and concern with which my Government has seen the property of its innocent citizens, while employed in fair and legal commerce, ravaged by the cruisers of a nation, between which and the United States the most perfect harmony has always hitherto subsisted; against which they have never heretofore found any cause of dispute, or any ground of offence; and to which they felt themselves attached, not merely by the ordinary ties of reciprocal good offices, but by a common interest in the defence and preservation of those neutral rights which have so much contributed to the political importance of Denmark; by which her prosperity has been so greatly promoted, and which formerly, foremost among nations, she has so magnanimously and successfully contended for. But at the same time that I make this reflection, so necessary and so obvious, I must also say that the President assures himself that it is only necessary that His Majesty should be made acquainted with the nature and extent of the injuries which the rights of the United States as a neutral nation, and the property of their citizens, have suffered, and are still exposed to, to induce him to apply an immediate and an adequate remedy to the evils complained of. His Majesty, on his part, cannot fail to feel that confidence in the correct views and honorable intentions of the United States, which their uniform conduct in all their negotiations and transactions with other Powers has so justly entitled them to; nor can he be indifferent when the friendly relations and mutual good dispositions which have hitherto so invariably subsisted between the two countries, and which it is so much the interest of each to maintain, are in question.

Animated by the most just and friendly dispositions, the American Government, while it resists all aggressions on its neutral rights, and will never cease to oppose all violations of the public law which may offend them, solicitously avoids any interference of the rights of others; nor will it admit, under cover of its name and authority, any practices which may have that tendency: it has therefore seen, with the most indignant sensibility, various instances of the prostitution of its flag by unprincipled adventurers in Europe; and I have it in express command to assure His Majesty of its determination to discountenance, by all practicable means, such proceedings, and of its sincere disposition to co-operate with His Majesty in detecting and punishing all similar frauds and impostures.

Your Excellency will perceive, in the frankness of these observations, and in the loyalty of this declaration, the true character of the American Government; they will also, I trust, strengthen my title to that confidence on the part of His Majesty, which it is at once my duty and my desire to merit.

To carry into effect this two-fold purpose of my Government, to protect the property of its citizens and to cast off from any reliance on its protection those spurious and fraudulent cases (if any such actually exist) which have injured the

character of the American trade, and jeopardized the interests of American citizens, I will enter into candid explanations with your Excellency upon all the questions which arise on the cases now pending, so as to establish the *bona fide* character of the vessels under adjudication, and thus remove from before His Majesty every obstacle to that course of justice which he is always desirous to observe, and to a manifestation of the amicable and conciliatory feelings towards the United States, which it is confided prevail in his mind.

I have the honor herewith to transmit to your Excellency two lists, containing, together, twenty-eight cases of American capture, being those now actually pending before the Supreme Court of Admiralty, on appeal, or waiting for His Majesty's decision. The list No. 1, comprising twelve of the whole number, are "convoy cases"—that is, cases in which no question has been raised as to the genuine character of the vessels, but wherein the decision rests upon the clause "D." of the eleventh article of the Royal instructions of March 10, 1810, declaring as a cause of condemnation, "the making use of English convoy." I stated to your Excellency, in conversation, as well as in the note which I took the liberty of addressing to you on the 2d inst., that it would be my duty to object to the principle assumed in that declaration. I trust that I shall be able to show you that it is entirely novel; that it has not any foundation in public law; and that it has not even such sanction as might be supposed derivable from the practice of other nations. Certainly much effort will not be necessary to prove that it is entirely repugnant to the broad ground of neutral right formerly occupied and firmly maintained by Denmark herself. But upon this point I propose forthwith to address to your Excellency a separate note; in the present I will confine myself to observations on the cases (sixteen in number) mentioned in the list No. 2.

With respect to the "Egeria," Captain Law, I send to your Excellency a separate note, in reply to that with which you honored me on the 2d instant. That case must now stand so perfectly clear that I am sure I need not trouble you with any additional remark on it.

In the two cases, namely: the "Nimrod" and "Richmond," the sole objection made is to the French certificates of origin which they had on board. These are presumed to be forgeries, upon a supposition that at the time they bear date the French Consuls in the United States had ceased to issue such certificates. Now the cases must be relieved from that objection, and the question which has been raised upon French certificates of origin be put at rest forever, by the facts which appear in the correspondence between the Secretary of State of the United States and General Turreau, the French Minister; a copy of which I have herewith the honor to enclose, (No. 3.) Your Excellency will observe that, in General Turreau's letter of December 12, replying to the Secretary's letter of November 28, it is expressly and unequivocally stated that the French Con-

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suls in America "had always delivered certificates of origin to American vessels for the ports of France," and had also "delivered them to vessels destined to neutral or allied ports," by the authority of the French Government; and that it was only by the United States' ship "Hornet," which arrived in America on the 13th November, 1810, that the French Consuls received orders to discontinue the granting of such certificates to vessels bound to other ports than those of France. Your Excellency will also perceive, in the Secretary of State's reply of December 18, how important this explanation was deemed by the President, in its application to the vessels of the United States taken by Danish cruisers, upon the ground of their having on board such certificates.

Of the thirteen remaining cases in the list No. 2, eight have been acquitted in the subordinate courts of Norway and at Flensburg, and are now depending in the high court, on the appeals of the captors; and five have been condemned in the subordinate courts, and are depending in the high court on the appeals of the American masters.

I annex to this note a summary of each class, (A and B,) showing the nature of the questions and objections which have arisen upon the several cases; and I do confide that, if your Excellency will be pleased to lay it before the King, His Majesty will become immediately sensible to the undue proceedings of his tribunals, and will readily apply his Royal authority to administer prompt and efficacious redress for the injuries and vexations which the commerce of the United States and its citizens are suffering.

I can only add, that, in all cases where any doubt shall arise respecting the authenticity of American documents, I have it fully in my power to establish the truth. And I beg leave to reassure your Excellency, that on this point, as on every other, you shall not experience any proceedings on my part which will not conform to the strict honor and good faith, to the just and liberal sentiments which characterize, and to the friendly and conciliatory dispositions towards His Majesty, which influence the Government which I have the honor to represent.

I offer to your Excellency assurances of the very distinguished respect and consideration with which I am always your Excellency's most obedient servant,

GEORGE W. ERVING.

To Mr. DE ROSENKRANTZ, &c.

[Received in Mr. Erving's letter of June 23, 1811.]

No. 1.—List of American vessels taken in company with the remainder of a fleet under convoy of a British gun-brig, and sent into Christiansand by five Danish gun-brigs, in July, 1810, viz:

The ship *Annawan*, Captain Donaldson, from St. Petersburg, bound to Philadelphia, and owned in Philadelphia.

Ship *Hesper*, Cushing, from St. Petersburg, bound to Boston, and owned in Newburyport.

Ship *Hope*, Rhea, from St. Petersburg, bound to Providence, Rhode Island, and owned in Providence.

Ship *Janus*, Gawn, from St. Petersburg, bound to Newburyport, and owned in Newburyport.

Barque *Mary*, Ropes, from St. Petersburg, bound to Salem, and owned in Salem.

Brig *Elizabeth*, Campbell, from St. Petersburg, bound to Philadelphia, and owned in Philadelphia.

Brig *Hope*, Meik, from St. Petersburg, bound to Marblehead, and owned in Marblehead.

Brig *Polly*, Graves, from St. Petersburg, bound to Marblehead, and owned in Marblehead.

Schooner *Rebecca*, Meik, from Gottenburg, bound to Marblehead, and owned in Marblehead.

Schooner *Iris*, Russel, from Gottenburg, bound to Salem, and owned in Salem.

Brig *Sophia*,* McIntire, from Gottenburg, bound to Liverpool.

Barque *Eliza*,* Luffkin, from Gottenburg bound to Liverpool.

No. 2.—List of American cases now pending before the High Court of Admiralty at Copenhagen, June 1, 1811:

Captured May 14, 1810, ship *Egeria*, Captain Law, owned in New York, from New York to St. Petersburg, detained at Fährsund.

June 5, brig *Minerva*, Baker, owned in Portland, from Portland to St. Petersburg, detained at Fährsund.

June 2, ship *Oscar*, Cunningham, owned in Baltimore, from Baltimore to Gottenburg, detained at Heckiford.

July 31, ship *Minerva* Smyth, Mann, owned in Philadelphia, from Philadelphia to Kiel, detained at Kiel.

July 31, ship *Fair Trader*, Craig, owned in Philadelphia, from Philadelphia to Kiel, detained at Kiel.

July 31, brig *Ariel*, Butler, owned in Philadelphia, from Philadelphia to Kiel, detained at Kiel.

August 18, ship *Resolution*, Eldridge, owned in New York, from New York to Gottenburg, detained at Christiansand.

August 8, brig *Nimrod*, Smith, owned in New York, from New York to Elsineur, detained at Aalborg.

August 8, ship *William & Jane*, Bunker, owned in New York, from New York to Russia, detained at Callenberg.

August 29, brig *Richmond*, Jervis, owned in Philadelphia, from Philadelphia to Gottenburg, detained at Fährsund.

October, ship *Pittsburg*, Yardley, owned in Philadelphia, from Philadelphia to Gottenburg, detained at Heckiford.

October, ship *Maria Therese*, owned in New York, from New York to Kiel, detained at Fährsund.

November, ship *Amiable Matilda*, Hague, owned in New York, from New York to Kiel, detained at Fährsund.

December, ship *Washington*, Almy, owned in New York, from New York to Russia, detained at Callenberg.

* These vessels are American, but the cargoes on freight supposed for English account. No appeal declared for either vessel.

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April 1, 1811, brig Rachel, Joseph, owned in Salem, from Boston to Russia, detained at Copenhagen.

April, ship Charlotte, Pierce, owned in Boston, from Boston to Stockholm, detained at the Isle of Bonholm.

[Referred to in Mr. Erving's despatch of June 28, 1811.]

B.

Mr. Erving to Mr. De Rosenkrantz.

COPENHAGEN, June 7, 1811.

SIR: With my note of yesterday I transmitted to your Excellency a list (No. 1) of the "convoy cases," twelve in number; the two last in that list are not depending on appeal before the High Court, as is mentioned in a memorandum opposite to their names; the first eight vessels of the remaining ten were bound immediately from Petersburg and Cronstadt to the United States; they had all paid their Sound dues, and several of them had been examined before the Danish Marine tribunals on entering the Baltic; and they were all arrested in going out by a British force, and compelled to join convoy. When that convoy was attacked by His Majesty's gun brigs, the Americans, not conscious of any illegality in the nature of their voyages, or of any irregularity in their own conduct, made not any efforts to escape. They were captured and brought into port. No question has been made as to the genuine American character of the vessels in question; but they have been condemned under the authority of the article "D," in the eleventh clause of His Majesty's instructions for privateers, issued on the 10th of March, 1810, which declares to be good prize all vessels "which have made use of British convoy either in the Atlantic or the Baltic." At the time of this declaration, these vessels were in Russia, on the point of sailing, and wholly ignorant of it. This is a brief history of the "convoy cases." It is now my duty to protest against the principle assumed in the instruction referred to, upon which they have been condemned. I shall endeavor to show to your Excellency that it is wholly new, not founded in or supported by any reasoning to be derived from the law of nations; not even countenanced by precedents; and as wholly repugnant to the doctrines heretofore held by Denmark itself, as it is to the rights and to the interests of the United States.

That the belligerent has a right to ascertain the neutrality of vessels which he may meet with at sea, and therefore, under certain suspicious circumstances, to bring such vessels into port for examination, I am not disposed to deny; it may also be allowed that the being found under enemy's convoy does afford such reasonable ground of suspicion against the vessels so found, as to authorize their being sent into port for examination; but this is the full extent of the belligerent right on this point. The examination had, and the vessels being found *bona fide* neutral, must be acquitted. To say that the neutral shall be condemned on the mere fact that he was found under enemy's convoy, is to impose upon him a necessity of sailing without protection, even against

his own separate enemies; for the case might well happen, indeed has happened, that, though neutral with regard to the belligerent Powers, he has had an enemy against whom either of the belligerents was disposed to protect him. Of such protection the American commerce has often availed itself during the war between the United States and the Barbary Powers; a third Power should be enemy as to one, and neutral as to the other; in that case, his seeking the protection of the common enemy of these allied Powers against that of them to which he was enemy, could not subject him to capture and confiscation by the allied Power with respect to which he was neutral; his right in either of these and in all cases to protect himself against his enemy, by availing himself of whatever convoy offers, is unquestionable. I state these arguments against the broad ground taken in the Royal instructions above quoted; but it will be said that the belligerent, having also an unquestionable right to ascertain the neutrality of vessels, and belligerent rights being paramount to neutral rights, where the two happen to be in collision; hence the attempt of the neutral to deprive the belligerent of his right by putting himself under convoy, forms of itself a ground of capture and confiscation. To this I answer,

Firstly. That the belligerent rights, where they come into collision with those of neutrals, are not to be deemed, in *all cases*, paramount, and that nothing can establish such a general rule but force, which is not law or justice.

Secondly. That no presumption necessarily arises against the neutral from the mere circumstance of his being found under enemy's convoy; but that this point will depend upon the peculiar circumstances of each case.

Thirdly. That where the belligerent and neutral rights conflict, all other circumstances being equal, the plea of necessity ought to decide the question in favor of the neutral. In the case supposed, the belligerent is seeking the mere exercise of a right, but the neutral is occupied in his self-preservation.

Fourthly. Superadded to this reason, in favor of the neutral right, is one springing out of the immutable principles of equity; for since, according to modern practice, the neutral has no representative in the judicature by which his cause is tried, that it is no longer an umpirage or a court of arbitration, so his claim to a favorable leaning towards his right in all questionable cases is very much strengthened.

But it is also proper to inquire whether the vessels in question did in fact put themselves under convoy with a view to avoid examination by Danish cruisers. Now, it appears, in the first place, that they did not seek convoy for any purpose, but that they were forced into it. Apart, however, from that question, there were not any Danish laws or ordinances which they knew of subjecting them to capture. Nor could they apprehend or anticipate any such; the less, as they had previously passed through the Sound or Belt in safety, and without convoy; hence they had

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not any motive to seek convoy as a protection against Danish cruisers. They had, indeed, other inducements to put themselves under convoy; the decrees of His Majesty the Emperor of France (since, happily for the harmony between the United States and France, repealed) were then in force; that system, working against the English Orders in Council, produced such a state of things with regard to the commerce of America, that scarcely one of its ships could move on the face of the ocean without being exposed, under this unfortunate co-operation of hostile systems, to capture and confiscation; hence it is not surprising if American vessels have, from time to time, been terrified into the convoy now of one party, now of the other. But had this happened in the case before us, yet it would not have formed a just ground of capture and confiscation; for the merits or demerits of the Berlin and Milan decrees out of the question, those decrees have not been adopted by Denmark.

Indeed, at the time the vessels were taken, His Majesty had not assumed any course with respect to the American commerce from which evil was to be apprehended; hence, I beg leave to repeat, that the vessels in question cannot be presumed to have sought protection under British convoy for the purpose of avoiding his cruisers. But if the contrary had been proved, if it stood confessed that they had sought convoy against Danish cruisers, in that case they would have been liable to capture, certainly; but it is equally certain that they would not have been liable to condemnation.

I must again totally deny that the rule laid down in the article of the Royal instructions above cited is supported by any principle to be found in the law; and I can confidently ask your Excellency to show me any authorities in its favor. If the writers be silent on the subject, then their silence is to be construed favorably for the neutral; it supposes that his right to sail under convoy, in all cases, is indisputable; what is not expressed against this claim cannot be implied; but I will add that all the analogies to be drawn from the law are in favor of the neutral. In this view the rule laid down in the instructions, by its sweeping latitude, forms its own condemnation; for it would comprise not only vessels which might accidentally be within sight of, or at any indefinite distance from an enemy's convoy, but vessels found in enemy's harbors under cover of his guns; but the law says, that neutral goods so found under his forts, within his territory, or even on board his vessels at sea, which is to be as immediately and totally under his protection as is possible; that these are not liable to confiscation, but shall be restored to the neutral owners. The doctrine laid down by Grotius, in the "*De Jure Belli ac Pacis*," on this point, has never been refuted, but has, on the contrary, been adopted by subsequent writers. Treaties, indeed, may have said otherwise; but treaties change not the law; they bind only the parties to them.

I may equally ask your Excellency to show me examples in the practice of nations, countenancing the rule laid down in the royal order;

and I can quote in favor of the neutral right the example of England, a Power which neither your Excellency nor myself are disposed to extol for her moderation in the exercise of her belligerent rights, or for any dispositions which she has manifested favorable to those of neutrals. England herself has never gone to the extent of condemning vessels upon the mere ground of their having been taken under enemy's convoy; but she has captured them in that situation, and acquitted them.

I might occupy your Excellency's attention by expatiating on the conduct of Denmark in former times, by carrying back your view to a consideration of that great system of neutral rights which she so boldly adopted and so ably supported in the year 1780, which are again recognised in her convention with Sweden in 1794, which she has subsequently co-operated with Russia to establish, and the leading feature of which still appears in the very Royal instructions on which I have been commenting. But it would be an ungrateful task, and not necessary to be undertaken, because the mere mention of the subject carries conviction to the mind on the point to which I would apply it, and because on every other I have already said more than enough to establish the chief position with which I began, viz: that nothing to be found in the law will authorize the condemnation of neutral property upon the mere fact of its being found under enemy's convoy, and that, therefore, on due proof of its neutrality, it must be acquitted.

I consider it to be a propitious circumstance, that, in acting upon this very important question, His Majesty's Government is unembarrassed by the claims of privateersmen, and that the cases of these vessels are thus presented in the plainest form, unmixed with any extraneous matter; the captures having been made by public ships, leaving the fullest scope to the magnanimity and justice of His Majesty's disposition. I am, &c.

GEORGE W. ERVING.

M. DE ROSENKRANTZ,
First Minister of State, &c.

Mr. Erving to the Secretary of State.

COPENHAGEN, July 15, 1811.

SIR: I have the honor herewith to enclose copies of my correspondence with this Government since my last communication, viz:

No. 1. Mr. De Rosenkrantz's note of June 28, in reply to mine of the 6th and 7th of June.

No. 2. My note to Mr. De Rosenkrantz of June 30, in reply to the above.

No. 3. Mr. De Rosenkrantz's note of July 9, in reply to mine of the 30th June.

On the 28th of June, I waited upon the Minister for the purpose of conversing with him on on such parts of his note of that date as respected the convoy cases, but did not obtain anything more satisfactory than what is contained in it; on the 29th, he went into the country, from whence he did not return until the morning of the 2d instant; in the meantime, the cases

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were pressed forward in the high court, and it was determined to condemn four of them instantly, as though it were to preclude the possibility of any further remonstrance on my part. I had received an intimation of this intention on the 30th of June, and then wrote to Mr. De Rosenkrantz, unofficially, hoping that he would be able to arrest the progress of the tribunal. On the 1st instant, having ascertained that intention, I again addressed him in the same way, and in terms rather more forcible. That communication, although unofficial, Mr. De Rosenkrantz, actuated by the most friendly motives, immediately sent to His Majesty, yet it failed of its intended effect, and, on the 2d instant, four of the cases were condemned.

On receipt of the Minister's last note, (on the 9th) I again waited on him, and warmly remonstrated against this precipitate procedure, and the determination taken to condemn all the convoy cases, without admitting any justificatory pleas; he reverted to whatever is found in his written communications to support the determination, and yet seemed to regret that it had been taken; but, withal, was unable to effect, and did not afford the least encouragement to hope for, any modification of it; nevertheless, some of these are cases of great hardship, and I have concluded not to relax my efforts in their favor while any one of them remains uncondemned.

In every other respect the position of our affairs is not unsatisfactory; the privateers are discouraged, and nearly all our vessels pass without interruption. I transmit, herewith, lists and statements as correct as it is possible to make them, which place in the most distinct point of view whatever has passed in relation to, and the actual state of, the business with which I am charged.

With the most perfect respect, &c.

GEORGE W. ERVING.

The SECRETARY OF STATE.

No. 1.

[Referred to in Mr. Erving's despatch of July 15.]

COPENHAGEN, June 28, 1811.

The undersigned, Minister of State, Chief of the Department of Foreign Affairs, has laid before the King, his master, the notes which Mr. Erving, special Minister from the United States of America, addressed to him on the 7th current. He is charged to assure this Minister that His Majesty has seen, with great satisfaction, that the President of the United States recognises the reciprocal utility of the relations which unite the two Governments.

The King, having always had it at heart to maintain a good understanding with the American Government, would be much pained if he could be convinced that the subjects of the United States, who have carried on commerce and navigation either in the ports of His Majesty, or in the waters which wash the shores of his States, or in the adjoining latitudes, have had just cause to complain of the treatment which they have met with there in consequence of the privateering which His Majesty has been forced to author-

ize, by the war into which the Danish nation have been drawn by the Government of Great Britain. His Majesty is persuaded that the vessels captured under the flag of the United States have not been brought into his ports, unless there was reason to suppose that the vessel was not duly authorized to carry that flag, or that she was engaged in an illicit trade. The ordinance as to privateering, which was published on the 28th March of the last year, prescribed to those fitting out privateers the conduct they were to pursue, and it also fixed the responsibility to which they were subjected. The High Court of Admiralty watches over the execution of this ordinance, which has met the approbation of all the Governments of Europe.

If there have been many vessels under the American flag brought in, it is because there have been a great number of them furnished with false papers, that evidently carried on a simulated and justly prohibited commerce. It was naturally very difficult for the courts to distinguish at first the navigation which was fair and in rule, (*en règle*), from that which was devoted to the service of the enemy of Denmark. The conduct of the navigators who followed the latter compromised those who had nothing at all to reproach themselves with; but, in every case where the High Court of Admiralty discovered that the papers on board proved that the vessel was really American, and that the captain had not made an improper use of them to cover the property of the enemy, passing it off as American, the vessels and the cargoes have been released. There was one cause of a seizure and of process against American vessels, which, in a certain degree, applied to those that produced false papers, or to those in whose documents there were irregularities. This was the certificate of origin granted to American vessels by the French Consuls residing in the ports of the United States. The French Government caused it to be officially declared to the Court of Copenhagen, on the 22d September, that the Consuls of France would not grant any more certificates of origin, and that every American vessel that had them on board had so far false papers, and was to be treated accordingly. Taking into view the strict and happy union which subsisted between the King and His Majesty, the Emperor of the French, His Majesty could not but pay attention to this communication. He, therefore, ordered that the certificates of origin, which had been thus declared to be all false, should be considered by the prize courts as false documents which would authorize the condemnation of the vessel that had them on board. The undersigned having been afterwards informed by the *Chargé des Affaires* of His Majesty in the United States, and more recently by Mr. Erving, that the Consuls of France in the United States had not received the order of their Government to abstain from granting those certificates until the 13th November of last year, by the *Hornet*, and that they had not ceased granting them until after that period; and, having reported this to His Majesty, he im-

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mediately directed that the certificates in question should no longer be injurious to the vessels that were furnished with them, provided that these certificates bore date prior to the 13th November of last year.

The King has not confined himself to giving this proof of his attention to the remonstrance made to him on the part of the Government of the United States; His Majesty has also, having in view the representations made by the special Minister of the United States, just ordered, that the cases of the following vessels under the American flag, brought into the ports of his dominions, viz: Minerva, Captain Baker; Resolution, Eldridge; Pittsburg, Yardsley; Maria Theresa, Phelps; Amiable Matilda, Hague; Minerva Smyth; should be reported to him by his Chancery before the definitive sentence was pronounced, in case the Supreme Court of Admiralty should find that the charges alleged by the captors were so well founded as to make it probable that the sentence would be unfavorable to the vessels. Mr. Erving will be pleased to observe, that these are vessels acquitted in the first instance by the prize courts, and in whose cases appeals had been made by the captors. His Majesty has also determined to cause to be reported to him in the same manner the cases of the following vessels: Oscar, Captain Cunningham; William and Jane, Bunker; Washington, Almy; Rachel, Joseph; Charlotte, Peirce; in which the masters of the vessels have had recourse to an appeal to the decision of the Supreme Court. The undersigned flatters himself that Mr. Erving will find in this compliance of the King, his master, an evident proof of the desire of His Majesty to see that the most exact justice may be observed towards the American vessels brought into the Danish ports. His Majesty, who has seen with great satisfaction that the President of the United States properly appreciates the sentiments of justice and equity which animate him, feels gratified in manifesting to him that he desires to preserve and to cultivate, on his part, the relations of good understanding and of amity which have always subsisted between the Danish Government and that of the United States of America. It is enjoined on the undersigned to charge Mr. Erving with assuring his Government that the intentions of the King, his master, are invariable in this respect.

In regard to vessels under the American flag, arrested at sea by Danish cruisers, and which were found under the convoy of British ships of war, Mr. Erving will permit the undersigned to have the honor of observing to him, that when the fact is fully proved, the searching after, and the use made of, the protection of the enemies of Denmark, in the seas which wash the shores of His Majesty's dominions, or in those which environ them, cannot be viewed by the Danish Government but as having taken from these vessels their original character of neutrals; but the King, not having been willing that the courts should attribute to vessels under the American flag the having been placed (*de s'être mis*) under the protection

of his enemies, unless the fact was proved, has very recently directed that proofs the most evident be required to establish the fact, that a vessel under the American flag had been (*ait être*) under English convoy. The undersigned cannot but urge, in favor of the principle established by the eleventh article of the ordinance for privateering, the argument that he who causes himself to be protected, by that act ranges himself on the side of the protector, and thus puts himself in opposition to the enemy of the protector, and evidently renounces the advantages attached to the character of friend to him against whom he seeks the protection. If Denmark should abandon this principle, the navigators of all nations would find their account in carrying on the commerce of Great Britain under the protection of English ships of war, without running any risk. We every day see that this is done; the Danish Government not being able to place in the way of it sufficient obstacles. The undersigned will add a single observation, which will serve to convince Mr. Erving that this principle is, in the view of His Majesty, as just as it is invariable; it is, that every Danish vessel which should make use of English convoy is condemned, if she is convicted of it, in like manner as a foreign vessel. It is but too well known that, in all times during maritime wars, neutral navigation has been exposed to embarrassments and delays. The Danish navigation has had experience of it in its time. It is, therefore, that the King has established rules for privateering, which place the navigation truly neutral, under cover from vexations. His Majesty would equally have wished entirely to have prevented captured vessels from experiencing delays of any importance when it was found that they had their papers on board, in order, (*en règle*), and that they had not improperly used them to carry on a simulated commerce on account of the enemy of Denmark. He is convinced that he has taken for this purpose all the measures in his power, and he is resolved carefully to watch over their execution. These measures, and the will (*volonté*) of the King offer sure guarantees to the commerce of the United States that the vessels under their flag will be able to navigate in the seas and waters visited by the Danish cruisers, without any risk of being molested by them, or brought in, if their papers are in order, (*en règle*), and there is no reason to suppose that they have been improperly used. The vessel which is destined to carry into any port whatever produce and merchandise which are not admitted into that port according to the laws of the State to which it belongs, will not be considered as in rule, (*en règle*), and the navigators, who may aim at employing their vessels in this way, will only have to blame themselves if their enterprise leads to their injury.

The undersigned, in acquitting himself, as he had just done, of the orders of his Sovereign, cannot deprive himself of the honor of again reminding Mr. Erving that the navigation and the commerce of the citizens of the United States found a reception and an outlet for the produc-

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tions of their country in the ports under the dominion of the King of Denmark, at a time when they did not enjoy the same advantages in the ports of the greater part of the States of Europe. This circumstance will sufficiently prove to the American Government that that of Denmark is fully aware of the reciprocal utility of the relations of commerce, and of good understanding between the two nations.

The undersigned has the honor of renewing to Mr. Erving the assurance of his high consideration.
ROSENKRANTZ.

[Referred to in Mr. Erving's despatch of July 15.]

No. 2.

Mr. Erving to Mr. Rosenkrantz.

COPENHAGEN, June 30, 1811.

The undersigned, special Minister of the United States of America, has received the note which His Excellency M. de Rosenkrantz, First Minister of State and Chief of the Department of Foreign Affairs, was pleased to address to him on the 28th instant, in reply to the representations made by the undersigned, on the 6th and 7th instant, respecting the reclamations with which he is charged. He shall immediately transmit his Excellency's said note to the Government of the United States, and is persuaded that the President will receive, with great satisfaction, the reciprocation which His Majesty has therein offered of the friendly sentiments which the undersigned was ordered to express. These dispositions, and the just and liberal views of His Majesty, with regard to the neutral commerce of the United States, as declared in his Excellency's note, since they leave not the least doubt but that his Majesty has been wholly unaware of the great injuries which that commerce has lately sustained within his dominions, afford to the undersigned the happy presage of a favorable termination to the business with which he is entrusted, and a sure pledge that the harmony which has hitherto always subsisted between the two Governments will still be maintained in its full extent and perfection.

Thus assured of meeting, on the part of His Majesty's Government, with no dispositions but those which are of the most just and friendly character, it is with more than ordinary pleasure that the undersigned proceeds in the performance of his duty.

His Excellency the Minister of State, after showing the causes which have occasioned the capture of so many vessels under the American flag, observes, that in all cases where the Supreme Tribunal of Admiralty has found that the papers on board such vessels prove their American character, and where their neutrality has not been abused by any attempt to cover enemy's property under simulated papers, both vessels and cargoes have been released. Such is undoubtedly the impression on the mind of His Majesty, who has been convinced that the inquiries pointed out by his instructions have been conducted with all the impartiality by which those instructions were dictated; but it can be shown, in a multiplicity

of cases, that the high court has entered into matter entirely irrelevant to the object of the instructions; that it has given weight to evidence entirely inadmissible, and has resorted to pretexts for condemnation entirely insufficient. It shall be shown to His Majesty, that thus, contrary to his royal intention, a great mass of American property has been unjustly condemned in the high court, whether by a misconstruction or mal-application of His Majesty's regulations, the undersigned will not undertake to say; perhaps it may not be important to inquire, since, be the source of this evil what it may, to the royal sense of justice only the injured now have to look, and they look with confidence, for redress. The details upon this subject will be voluminous. The undersigned will here point only to one, and that a recent decision, (being the first which presents itself,) by way of exemplification.

In the case of the American ship "Swift," Champlin.

In the high court, on the 11th of March, 1811, this ship was condemned on an allegation that Captain Champlin had thrown some papers overboard; which allegation had no better or other support than the oaths of seven of the privateersmen who captured her.

It is to be observed on this sentence:

First, as to the alleged fact. The Royal instructions of March, 1810, after stating what shall be deemed causes of condemnation, in the twelfth section, states what shall be cause of suspicion, and subject vessels to further examination; and, in the article E, specifies the throwing overboard or destroying papers. This throwing overboard or destroying papers, then, constitutes ground of suspicion only, and authorizes further examination with a view to ascertain whether that fact can implicate the neutral character of the vessel. Now, in the course of the further examination, on this trial, the neutrality of the ship and the fairness of her voyage were fully established. The alleged circumstance with respect to her papers, therefore, remained naked, and unsupported by any sort of ground or pretext for condemnation, and yet she was condemned!

Secondly, as to the evidence. The American master objected that it was contrary to all the principles of justice and law to admit the evidence of privateersmen, who were parties interested in his condemnation; but the court decided that they were not interested, and that their evidence must be admitted, and that the evidence of the crew of the American ship should not be admitted to rebut it. The American master then went on to show that the witnesses were interested, and produced a contract made between them and the owners of the privateer—the authenticity of which was acknowledged—by which it appeared that the equipage of the privateer were to receive half of the next prize which they might take. Still the court determined that they were not interested in the condemnation of this ship, and that their evidence should be admitted! The American master then went on to prove that it was impossible they should have sworn truly: they had declared

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that the papers thrown overboard were of the size of about six inches square, and had been passed through a certain opening in the after part of the ship. The American master proved, by the examination and declaration of two Danish masters, that the privateersmen could not have seen them drop into the water as they had stated; and, further, that the hole pointed out was not large enough for them so to have been passed through. But, neither did these proofs produce any effect in favor of the American; he was predestined to condemnation. The court had no disposition to reject the evidence of the privateersmen, though the same privateersmen had produced two other men to swear that they had seen this same ship "Swift" at Liverpool; and Captain Champlin proved, that one day after the day in which this evidence stated that he was at Liverpool, he spoke to His Majesty's gun-brig the "Sea Gull."

The undersigned trusts that any comment whatever upon such a sentence would be entirely superfluous—a sentence in direct violation of His Majesty's instructions. He will only add, that the property thus condemned is valued at one hundred thousand Spanish dollars.

The explanation which the Minister of State gives as the objection made by the tribunals to French certificates of origin, and the order which His Majesty has now been pleased to issue on that subject, though applying only to two of the cases, viz: the "Nimrod" and "Richmond," named in the list transmitted to His Excellency on the 6th instant, and both lately acquitted, cannot fail of being satisfactory; but observing therein that the notification made by the French Government was not till the 22d September, the undersigned cannot refrain from again adverting to the conduct of the high court, which, in a sentence given on the 22d December, in the case of the "Agent," Row, justified the capture of that ship in the month of June, upon the ground that she had with her papers a French certificate of origin; and upon that same ground, and upon that only, decreed that a sum of five hundred rix-dollars should be paid to the captors. Precisely the same decision was given about the same time in the case of the "Julian," Abbot.

In the order which His Majesty has now issued with respect to the eleven cases pending in the high court, and as specified in the Minister of State's note, the undersigned recognises the determination of His Majesty to insure justice to the American claims, and he has the honor to assure His Excellency the Minister that the President will receive with peculiar satisfaction the declaration of His Majesty, accompanying this act, and charging the undersigned to communicate to His Government His Majesty's invariable disposition to cultivate the good intelligence and friendly intercourse which ought always to subsist between the two countries.

When on every point there is the pleasing prospect of a perfect accord, it is with regret that the undersigned feels the necessity imposed on him of differing in opinion with his Excellency Mr. de Rosenkrantz on the subject of the convoy cases,

and of contesting some of the doctrines which the Minister has laid down as applicable to those cases.

His Excellency has not thought proper to reply to the reasoning upon which the undersigned bases his reclamation, which, therefore, remains in its entire force; nor has he produced anything which can be deemed satisfactory in support of the principle assumed in the royal instruction to which that reasoning has been applied. The Minister of State has produced, in favor of the principle in question, the single argument, that he who puts himself under the protection of another, does, thereby, take side with his protector, and renounces the advantages which belong to the quality of friend, as to him against whom he seeks protection. In vain are the books examined to discover the source from which this argument is drawn; in vain are history and the records of diplomacy resorted to for authority, or for any countenance given to the doctrine which it embraces. But these books, and these records, have they lost their title to respect? Have they become a dead letter? His Majesty certainly does not assume to act on principles unknown to them, to originate a practice at once undefined in its limits, and rigorous in its character beyond all precedent; in hostility, also, with the ancient doctrines of Denmark, and a stranger to all her maritime codes; so much a stranger as that it is not found even in the royal instructions issued on the 14th September, 1807. His Excellency the Minister of State supposes an acquiescence in this new rule, upon the consideration that it is applied to Danish ships as well as to strangers. Certainly the United States will never dispute the equity or propriety of any law emanating from His Majesty's authority, and applied to his own subjects; but it is equally certain that they found their rights upon the public law only, and cannot consent to place them at the disposition of any partial authority, or to limit them by the convenience of the belligerent Powers. It is not readily conceived how Danish ships, or ships of the allies of Denmark, being subject to the capture of the enemy, can be found under his convoy; vessels carrying such flags and so found cannot but be enemy's property; but if, by whatever means, His Majesty's subjects do put themselves under enemy's convoy, they are doubtless guilty of a high crime, and richly merit all the punishment which his laws inflict. But is the same rule to be applied to the property and to the citizens of a neutral and independent Power?

Thus much the undersigned has found it his duty to say, in addition to what has been before stated, and remains unanswered, respecting the principle assumed in the royal instruction of March, 1810; but he finds one part of the Minister's note which, as he apprehends, goes much beyond that instruction, and which would preclude the neutral from any kind of justification for being found under enemy's convoy.

It were a gross dereliction of the interests of the United States, should the undersigned leave the least room for his Excellency to suppose that the

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American Government will accede to the fiction propounded by his Excellency, viz: that neutral vessels found under enemy's convoy "have *eo facto* lost their original quality of neutrals. This idea was certainly more fully and distinctly expressed in conversation; and seeing that there are parts of his Excellency's note which favor a different conclusion, he eagerly seizes the hope that it is not really intended to carry the doctrine to such an extent; yet, as in a matter of such importance nothing should remain equivocal, the undersigned, desirous of laying it before the President in the most distinct manner, requests that he may be favored with an explanation as to whatever is susceptible of misconstruction.

His Excellency, pursuing the idea above cited, in mentioning the instructions which His Majesty has now given to his tribunals to direct their examinations on American vessels found under enemy's convoy, says: "*Que les preuves les plus évidentes seront réquises pour prouver qu'un navire sous pavillon Américain ait été sous convoi anglois.*" Yet, it is hoped that the words *ait été* are not intended to be connected with what is above quoted, but rather that they are to be governed by the sense of the words "*s'être mis sous la protection,*" found in the same sentence; by the words "*la recherche et l'usage faits,*" in the paragraph preceding; by the words "*se fait protéger,*" which will bear the same construction in the paragraph following; and, finally, by the words in the article "D," clause 2, of the Royal instructions of March, 1810, construed "using convoy," which must be supposed to mean a voluntary use of convoy, and cannot intend vessels which have been forced into, or have accidentally found themselves in, convoy. For, to condemn vessels under such unfortunate circumstances, is that the course of a Power friendly to the neutral? This reflection so strengthens the above construction of the words used in the Royal order of March 10, as not to leave a possibility of supposing that His Majesty intended that such innocent vessels should be affected by it.

The undersigned cannot conclude this note without expressing his full confidence that the friendly dispositions professed by His Majesty will dispose him so to regulate the conduct of his tribunals upon the convoy cases, as to satisfy the just claims of the United States; or without assuring his Excellency the Minister of State, in reply to the last observations in his note, that the American Government is also fully sensible of the value of the commercial and friendly relations which have always subsisted between the two countries.

G. W. E.

His Ex'cy M. DE ROSENKRANTZ.

No. 3.

[Enclosed and referred to in Mr. Erving's despatch of July 15, 1811.]

Count Rosenkrantz to Mr. Erving.

COPENHAGEN, July 9, 1811.

The undersigned, Minister of State, and Chief of the Department of Foreign Affairs, has seen,

with very particular satisfaction, from the note of Mr. Erving, Minister of the United States of America, under date of the 30th ultimo, that he was not disappointed in his expectation of finding that Mr. Erving would acknowledge the sentiments of justice and equity which animate the King his master, as well as the desire of His Majesty to maintain a good understanding with the Government of the United States. But it is not without pain that the same Minister of State sees that Mr. Erving remonstrates against the sentences already definitively pronounced. It is with the same sentiment that the undersigned finds himself charged by the orders of his Sovereign to repeat to the Minister of the United States that His Majesty cannot make any general change in the regulations of the ordinance for privateering issued on the 28th of March of last year, and, in consequence, none in the 11th, which, under the letter "D" declares that neutral vessels that make use of the convoy or protection of the vessels of war of Great Britain are to be considered as good prize, if the Danish privateers capture them under convoy. The undersigned must repeat that the rule laid down by that article of the ordinance will be followed by the prize courts whenever the proofs are clear that the vessels under American flags, as well as those of other nations, are found in a convoy under the protection of the enemies of Denmark. He does not wish to repeat here what he had the honor of stating on this subject in his preceding note, but he begs Mr. Erving to be so good as to observe to his Government that none of the Powers of Europe have called in question the justice of this principle.

Mr. Erving has observed that, notwithstanding the Danish courts had not been directed to consider the certificates of origin granted by the French Consuls in the ports of America as false until after the 22d September of last year, there has nevertheless been imposed upon two vessels, acquitted by the Supreme Court of Admiralty, a fine, solely for having these certificates on board, as Mr. Erving has been informed. The undersigned, although he is not informed of these facts, will not call in question the assertion of the Minister of the United States; and he must consequently suppose that the suspicion of the legality of these certificates was excited by the public declaration, which was before made on the part of the French Government, that the Consuls of France were not authorized to grant the certificates in question, and that, for that reason, the courts have decided that the captors were justified in bringing in the vessels for examination.

ROSENKRANTZ.

[Received in Mr. Erving's letter of July 15, 1811.]

[No. 1 is a list of vessels carried into Norway in the years 1809 and 1810.]

[No. 2 is a list of American vessels captured and carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1809. List made by Mr. Saabye, July 14, 1811. Also, a list

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of American vessels captured and carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1810.]

[No. 3 is a list of American vessels taken in company with the remainder of a fleet under convoy of a British gun brig, and sent into Christiansand, by five Danish gun brigs, in July, 1810.]

No 4.—It results from the foregoing lists that the number of vessels carried into the ports of Norway, in the year 1809, was thirty-six, of which only six have been finally condemned. None are pending.

That the number of vessels carried into the ports of Norway, in the year 1810, was thirty-six, of which only eight are pending in the High Court of Admiralty at Copenhagen, and of which there has not been one final condemnation.

That the number of vessels carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1809, was twenty-five, of which seven were condemned and eighteen acquitted.

That the number of vessels carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1810, was sixty-eight, of which nineteen have been finally condemned, and six are yet pending.

That of eighteen convoy cases, eight have been condemned; they were desperate cases. Ten are yet pending, some of them more favorably circumstanced than others.

The pending cases of the foregoing lists are, viz: Of the Norway list of 1810, eight, viz: Egeria, Law; Oscar, Cunningham; Resolution, Eldridge; Minerva, Baker; Pittsburg, Yardsley; Maria Theresa, Phelps; Richmond, Jarvis, and Amiable Matilda, Hague. Papers sent to Paris in the cases of Lydia, Chevers, and Zeno, Stow.

Of the Danish list of 1810, six, viz: Nimrod, Smith; William and Jane, Bunker; Fair Trader, Craig; Minerva Smyth, Mann; Washington, Almy; and Ariel, Butler.

Of the convoy cases, ten, viz: Annawan, Donaldson; Hope, Rhea; Mary, Ropes; Hope, Meik; Rebecca, Meik; Janus, Gawn; Hesper, Cushing; Elizabeth, Campbell; Polly, Graves, and Iris, Russell.

[No. 5 is a list of cases finally condemned.]

[No. 6 is a note of the further proceedings on the twenty-four pending cases subsequent to May 30, 1811, including convoy cases.]

From the foregoing statements may be seen the situation of American claims on the 30th of May, 1811. It appears that there were, viz:

Captures in 1809 -	-	-	-	-	63
Captures in 1810 -	-	-	-	-	124

Total -	-	-	-	-	187
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Cleared -	-	-	-	-	114
Condemned -	-	-	-	-	31
Pending -	-	-	-	-	14
Condemned cases of a desperate character -	-	-	-	-	16
Cases transferred to Paris -	-	-	-	-	2
Convoy cases pending -	-	-	-	-	10

Total -	-	-	-	-	187
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[No. 7 is a list of American vessels which have entered Norway, the Belt, or Sound, have been captured, or have passed without interruption, since the 30th of May, 1811, (or intelligence respecting which has been received since that date;) and note of the proceedings on such of them as have been detained; this list comprising the whole of American cases for the year 1811.]

CAPTURES OF AMERICAN VESSELS.

[Communicated to Congress, April 22, 1812.]

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 4th of March last.

APRIL 23, 1812.

JAMES MONROE.

DEPARTMENT OF STATE, April 23, 1812.

The Secretary of State, to whom was referred the resolution of the Senate of the 4th March last, has the honor to report that the enclosed papers, marked A, B, and C, contain all the information in this Department "relative to captures made by the belligerents since the 1st day of May, 1811, of vessels of the United States bound to or from the Baltic, or within that sea."

All which is respectfully submitted.

JAMES MONROE.

B.

Extract—Mr. Erving to the Secretary of State.

COPENHAGEN, July 28, 1811.

I have the honor herewith to enclose copies of my note to Mr. De Rosenkrantz, dated 17th instant, upon the convoy question, and his reply of the 27th.

The reference to my above-mentioned note to the Royal Chancery, as stated in the Minister's reply, did not take place until the 24th or 25th; in the mean time two of the cases therein mentioned, viz: the Annawan and the Hesper, were condemned by the high court; I think it probable that the remaining two cases, in which, as you will perceive by that note, the evidence of force used to compel the vessels to join convoy is more clear than in the other cases, will be acquitted.

Since the date of my last, upwards of twenty of our vessels have passed up the Baltic; some few of these have been detained, examined, and released. Eight vessels have come down bound for the United States; of these five have been detained, one the "Experiment," Vibbert, having despatches on board from Mr. Adams, was released instantly on my application; three others were released after a few days' detention, and one only (having an English license, laden for English account, and being bound to Ireland) is pending in the Prize Court.

It is said that a great number of our vessels have gone up under convoy. I find it is impossible to obtain in advance any security for such

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of these cases as may return without convoy ; the clause in the King's instructions, against which I have thought it my duty to protest, is understood to extend to all vessels which have used enemy's convoy during the voyage (out and home) in which they are actually engaged.

[Enclosed in Mr. Erving's letter of July 28.]

Mr. Erving to Mr. Rosenkrantz.

COPENHAGEN, *July 17, 1811.*

SIR: The undersigned special Minister of the United States of America, in acknowledging the receipt of the note dated 9th instant of his Excellency Mr. De Rosenkrantz, First Minister of State, and Chief of the Department for Foreign Affairs, cannot but express the very great concern with which he has seen the determination of His Majesty therein declared of adhering to a rule of proceeding with regard to American vessels found under British convoy, against which the undersigned has so formally protested and remonstrated as a violation of principle derived from the law of nations, to which the United States can submit the arbitration of their neutral rights ; that, contrary to the practice of other Governments, with which that of America has from time to time found itself in collision upon similar questions, His Danish Majesty confines himself to a declaration of his will, unsupported by authorities or examples, and unqualified by any modifications of, or exceptions to, the offensive principle in question, adapted to the peculiar circumstances of the cases which may be affected by it, and finally, that by the operation of this rule, cases now depending in the high court of ships and cargoes purely and wholly American, wherein neither the owners nor masters have done, attempted to do, or contemplated any injury or offence to His Majesty's belligerent rights, are to be condemned because they have had the previous misfortune of falling into the hands of his enemy : neither the regular form in which these vessels have entered the Baltic, paying their Sound dues, neither the judicial investigations which have established their neutrality, neither orders found on board directing them not to take British convoy, neither the notoriety nor the most clear proofs of their having been forced into convoy—these it seems are not to avail. But that His Majesty may see in the most distinct manner the full effect of his own rule, and that the representations of the undersigned against it may go accompanied by clear exemplifications of the injustice which it operates, so that it shall at all times appear that he has not remonstrated but on sufficient grounds, and that he has not magnified the cause of complaint, he will here briefly state the circumstances of the only four vessels which remain uncondemned of eighteen which were taken under the same convoy. These are, the *Annawan*, *Donaldson* ; *Hesper*, *Cushing* ; *Hope*, *Rhea* ; *Elizabeth*, *Campbell*. The first two names of these vessels (*Annawan* and *Hesper*) were captured by His Majesty's cruisers on entering the Baltic ; they underwent a trial in the

Prize Court, when their neutrality was fully established, and they were released. These previous proceedings leave scarcely a possibility of supposing that they sought convoy on their return ; but the assurance in this respect is completed and confirmed by the unanimous declarations of the masters and crews, proving most incontestably that they were forced to join the British convoy. The *Elizabeth*, Captain Campbell, was also captured on her outward voyage by His Majesty's cruisers ; her neutrality was established, and she was acquitted by the Prize Court. The fact of her having been forced into convoy conformably to the unanimous declaration of the master and crew is found also recorded in her log-book, under date June 18, 1812.

The instructions of the supercargo, Fisher, found on board, direct the captain in these words, viz.

"On your passage down the Baltic you will call at *Elsineur* and pay the Sound duties, if in your power ; and if prevented by any force or other occurrence, you will make the necessary protests, and forward such documents to Mr. Yard as will prove your having proceeded in every respect in a clear and regular manner. In case, however, notwithstanding all the documents you possess, you should meet with any interruption whatever, I beg you will, if on any part of the Continent, send me an *estafette*, and I will endeavor, as much as lies in my power, to assist you, either by coming to you or sending you such proofs as lie in my power. I have provided you with a letter of credit on the house of Messrs. Parish & Co. of Hamburg, in case of need ; and I shall also write to Messrs. Belfour, Ellah, and Rainals, to send you assistance if you are in need of it, which I must confess I do not apprehend from the *Elizabeth* having regularly paid her Sound dues, and having been already acquitted through the courts in Norway."

The supercargo, Fisher, also wrote to the above-mentioned Belfour, Ellah, and Rainals, of *Elsineur*, directing them to pay the Sound dues on the *Elizabeth*, and despatch her as quick as possible ; which letter said Belfour & Co. received, as appears by their affidavits. In the case of the *Hope*, *Rhea*, superadded to all other proof of her having been forced into convoy, is an endorsement made on her ship's papers, on the 15th June, by the British commander, Charles Dashwood, of which the following is an extract :

"Boarded by His Majesty's ship *Pyramus*, off the north end of *Gothland*, and ordered to proceed to join convoy in *Hano bay*, near *Cadsham*. He has no license whatever, yet, as it appears to be neutral property, the return of his outward bound cargo, I have my doubts about detaining her. My object in ordering her to join convoy, though a neutral, is to prevent her from going to an enemy's port with naval stores, or to be captured."

The undersigned is sensible that he has now said all that the subject requires, yet he cannot leave any observation of his Excellency Mr. De Rosenkrantz without reply ; upon that, therefore, which seems to call for the acquiescence of the

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American Government to the rule in question, because it has not been disputed by an European Power, he must remark that no European Power whatever is, relatively to that ruler, in the same situation as the United States; but, on the contrary, that each of them is impossibilitated by the nature of circumstances from reclaiming against it.

GEORGE W. IRVING.

[Enclosed in Mr. Erving's letter of July 28.]

Mr. Rosenkrantz to Mr. Erving.

COPENHAGEN, *July 27, 1811.*

The undersigned, Minister of State, Chief of the Department of Foreign Affairs, has the honor to inform Mr. Erving, Minister of the United States of America, that, in consequence of the particular representations which Mr. Erving addressed to him on the 17th instant in favor of the American vessels "Annawan," "Hesper," "Hope," and "Elizabeth," captured under the English convoy by Danish cruisers, he hastened to cause the Royal Chancery to make known to the Supreme Tribunal of the Admiralty the arguments furnished by the note of Mr. Erving to prove that the said vessels had been forced to join convoy.

The undersigned has also drawn the attention of the Supreme Tribunal to the particular situation in which these vessels were placed. He wishes that this circumstance may determine the Judges of the Admiralty to make an exception to the rules established for the government of cruisers and for the tribunals of prizes.

The Minister of State has the honor to pray of Mr. Erving to be pleased to observe that if, as he remarks, the American vessels find themselves, so far as regards the use they make of the protection of the enemies of Denmark by the means of convoy, in a situation or relation different from that of vessels under the European flags generally, this does not in any degree change the rule which has been prescribed by the King of Denmark, because, as has been heretofore alleged by the undersigned, the protection of the enemy destroys in him who uses it his original quality of neutral and friend. This rule might, by an event of the moment, be more applicable to the conduct of the masters of American vessels than to that of the masters of vessels under any of the European flags, but it is calculated to be applied to every neutral flag without distinction.

The undersigned is consequently obliged again to state to Mr. Erving that the use of the English convoy in the North Sea, or in the Baltic, exposes neutral vessels to be treated conformably to the provisions of sec. xi. lit. D. of the ordinance regulating privateers.

He seizes this occasion to renew to the Minister of the United States the assurance of his high consideration.

ROSENKRANTZ.

Extract—Mr. Erving to the Secretary of State.

COPENHAGEN, *August 18, 1811.*

Two American vessels, viz: the "Hero" and "Radius," have been captured by the French pri-

vateer *La Minute*, No. 2. The captain of this corsair imagines that he can justify the capture by his Emperor's decree against colonial produce, within which description he supposes the cotton of these vessels (though the produce of Carolina and Georgia) to be comprised; the oil on board the *Radius* is from Galiopolis. The same corsair is now cruising off *Elseneur*, just without the Danish jurisdiction, and declares his intention of stopping every vessel which has any colonial produce on board; though, as the season is so far advanced, it is not probable that there will be many more arrivals from the United States; yet I have taken measures to have a Swedish boat cruising from the island of *Anholt* to the coast of Sweden, to warn all vessels so that they may pass through the Belt and pay their Sound dues at *Nyborg*.

[Enclosed in Mr. Erving's letter of August 18.]

Extract of a letter from George W. Erving, Esq., special Minister of the United States at Copenhagen, to Jonathan Russell, Esq., Chargé d'Affaires of the United States at Paris.

COPENHAGEN, *August 9, 1811.*

Brig *Hero*, H. Blackler, master, of Marblehead, owned by William Blacker & Sons, one hundred and seven tons burden, from Marblehead, bound to St. Petersburg, with a cargo of cotton and coffee.

Brig *Radius*, B. Lander, master, of Boston, owned by William Gray, from Newport bound to St. Petersburg, with a cargo of oil, cotton, &c.

DEAR SIR: The two vessels above mentioned arrived at *Elseneur* on the 6th instant, paid their Sound dues, and proceeded on their voyage; on the 7th, the wind ahead, they anchored near this port; yesterday morning about four o'clock they got under way again, and in the course of the day were captured by a French privateer at about six English miles from the Danish shore, off the point of *Falsterbrough*, that is within the Swedish jurisdiction; they were brought into this port by said privateer at two o'clock yesterday afternoon. I made every effort with Mr. Desaugiers, the French Consul and Chargé d'Affaires, and with this Government, to prevent the papers (which were immediately delivered to said Mr. Desaugiers) being sent to Paris, and to obtain that the matter should be decided in the tribunals of this country, but unhappily without effect.

The papers of those vessels will probably go to Paris by the same post; the cases will necessarily fall under your care; in the present state of our relations with the Emperor, we may hope not only for despatch and a favorable decision on them, but for some check to the depredations which are likely to be committed in this quarter.

Extract of a letter from Mr. Erving to Mr. Monroe.

SEPTEMBER 8, 1811.

Since the date of my last, (August 18th,) the same French privateer has captured three of our vessels bound up the Baltic, viz: the "Egeria," *Law*, "Hannah," *Dennis*, and "Two Generals," *Courtois*; she has been lately joined by another,

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called "Le Loup;" they lay at Elsinéur, cruising in favorable weather from thence to the Kohl Point, and in that position must intercept all vessels entering the Sound. The just apprehensions which their proceedings have excited, to say nothing of their open declarations, which are not so well established, prevent our vessels which have arrived from Petersburg at Elsinéur from leaving that place. The number of these at present may be about ten, and will be augmenting daily. They are impatient to depart, not only on account of the lateness of the season, but because the roads of Elsinéur are not safe in bad weather; some of them are disposed to sail and to defend themselves, and have offered their protection to others which are not prepared for defence. I have hitherto been able to dissuade them from this purpose, under the reasonable prospect of obtaining from the Danish Government some security for them, in consequence of the application which I have made with that view.

Mr. Erving to the Secretary of State.

COPENHAGEN, September 23, 1811.

SIR: I have the pleasure to add, to what is contained in my despatch of September 8, respecting our vessels then lying at Elsinéur and bound to the United States, that, on the 21st instant, the whole fleet (consisting of twenty-three vessels,) put to sea, and, owing to the good conduct of the Danish gunboats, keeping the Danish privateers in order, it is understood that none of them have been captured. I am well persuaded that the same conduct will be observed on future occasions. Still further to insure a good police in the Sound, a Danish gun-brig, ordered to co-operate with the gunboats, has to-day been despatched from hence. The enclosures, No. 31 and 32, will inform you more particularly as to the departure of our vessels; the two mentioned by Messrs. Belfour & Co., the captains of which had come hither to see me, followed the rest, and in equal security, the same day.

With the most perfect respect, I have the honor to be, sir, your obedient servant,

GEORGE W. ERVING.

P. S. October 2d. The wind having continued favorable for the fleet, no further intelligence respecting it which could be entirely relied on was received until yesterday, when the "Augustus," Flint, master, and "Horace," Leech, master, both belonging to Salem, and bound from St. Petersburg to Boston, were brought back under capture (by the Danes.) I understand the ground of capture to have been, with respect to the "Augustus," (and probably of the other,) that one or more cannon, not mentioned on her papers, besides some Danish muskets, (the exportation of which is prohibited,) were found on board.

It appears that the French privateers gave chase to the fleet, continually firing to bring them to, but they did not succeed in detaining a single vessel.

Two other of our vessels went from hence on the 24th, and got safe out also.

Since then two more French privateers have arrived, and now they seem disposed to cruise above this island; one of our vessels bound from Petersburg to Elsinéur has been sent in to-day.

[Enclosed in Mr. Erving's letter of September 23.]

COPENHAGEN, September 21, 1811.

GENTLEMEN: I have to acknowledge the receipt of your several favors of the 17th and 19th instant.

Two American captains from Elsinéur to-day inform me that whenever the wind is fair for their sailing, the gunboats are in the habit of going out and lying in the channel, upon which movement they founded some apprehension; though I did not put the same construction upon this practice as they seemed to do, and expressed my opinion accordingly, yet I have thought it proper to inquire further into the matter, and have the pleasure to say, that I now feel assured that the intention of the movement referred to is far from hostile; that it is the object of the gunboats, pursuant to His Majesty's instructions, to preserve peace and to afford the security due to neutrals *within His Majesty's jurisdiction on the water*; within that jurisdiction I presume that they will not allow of any capture, and therefore a vessel in danger of capture, and flying from danger, will find protection under their guns in lieu of being endangered by them.

G. W. E.

To Messrs. BELFOUR, ELLAH,
RAINALS & Co., Elsinéur.

[Enclosed in Mr. Erving's letter of September 23.]

From Belfour and Co. to Mr. Erving.

ELSINÉUR, September 21, 1811.

8 o'clock, P. M.

SIR: We crave reference to our respects of this morning's date, and have now to inform you that at twelve o'clock this forenoon, every ship (except two, the captains of which were at Copenhagen,) got under sail and proceeded down Cattegat: when nearly off Hornbeck, they were mostly brought to, and boarded by Danish privateers; but as yet we have not learned any were detained; many seemed afterwards to proceed on. The French privateers were much lower, say below the Kohl; and many seemed inclined to think it possible that they will not be able to board; there being so strong a current down, drifts them further to sea than they are aware of. Unluckily there is but little wind.

The gunboats went down at the same time, to take care that the French did not interfere within our jurisdiction. A Danish privateer that was considered to be acting improperly was fired at by one of the gunboats, and unfortunately one man killed and two wounded. We are, &c.

BELFOUR, & CO.

Extract—Mr. Erving to Mr. Monroe.

COPENHAGEN, November 10, 1811.

Two other vessels, viz: the Roboreas, Williams, master, and Andromache, Laing, master,

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have been captured by the French privateers without the Danish jurisdiction; they were bound from Russia to the United States.

The *Hero* and *Radius*, mentioned in letter of August 18 have been condemned by the Council of Prizes at Paris on the allegation that they were laden with colonial produce for English account, &c.; an appeal to the Council of State has been entered.

The cases of the *Two Generals* and *Hannah*, also stated in the above letter, are yet pending here; the papers have been demanded of the French *Chargé d'Affaires* by this Government; he has written to Paris for instructions, which will probably be favorable; or, if not, as the French can only claim under the Danish captors, the fact of the vessels having been taken within His Majesty's jurisdiction being established, the cases must be tried here; in which event I entertain no doubt but that they will be acquitted.

In the case of the *Egeria*, it has been determined by this Government that the French captors cannot claim, and the vessel will be forthwith released.

By my despatch of September 23d, I had the pleasure to inform you of the departure from *Elsineur* of twenty-three homeward bound vessels, that none of them had been intercepted by the French, and that two only (having armed themselves whilst laying at *Elsineur*) had been brought back by a Danish privateer; these I shall be able to procure the release of in a short time.

Very lately three other homeward bound vessels, viz: The *Lyon*, *Agent*, and *Dolphin*, have gone out unmolested; by this last we are informed that no American vessels remain at *Petersburg*, so that I trust no further captures will be made this year by either the French or Danish privateers.

Of the cases which were pending on my arrival at this place, as by statement transmitted with my despatch No. 4, one only (the *Resolution*, *Eldridge*, master), has been condemned; convoy cases expected. The *Resolution* belonged to Messrs. *Minturn* and *Champlin*, of New York; had been bought for their account in England, during our embargo; went from thence to *Madeira* and *India*; at *Canton* was laden partly for account of said *Minturn* and *Champlin*, and partly for account of Chinese merchants; went to New York after the embargo was raised, and there received the usual papers, with which she continued her voyage to the Baltic.

Of the above-mentioned pending list only one case remains to be decided, the *Minerva Smyth*, *Mann*, master; it is in rather an unfortunate situation, and I have therefore delayed it myself, for the purpose of procuring, and in the hopes of introducing into the cause further evidence. It may be settled in the course of six weeks.

Of the list containing fifty-eight vessels, dated July 15th, and transmitted with the same despatch, No. 4, only nine were captured vessels; eight of these have been released; one, viz: the *Charlotte*, *Pierce*, master, has been condemned; her owner went in her to England, from whence

he dated his instructions to the captain; the other reasons assigned for condemnation will be found in a translated copy of the sentence, which is No. 37 of the file herewith transmitted.*

I also enclose herewith a list of vessels which have passed this way from the date of the last, (July 15,) to October 9. It amounts to eighty-two. Of those—

There have been captured and released -	14
Captured and condemned for having English license, false clearance, having been under English convoy, &c. -	2
French captures, <i>Hero</i> , <i>Radius</i> , <i>Roboreas</i> , and <i>Andromache</i> -	4
Pending cases in Norway -	7
Pending cases in Copenhagen -	11
Continued their voyages without interruption -	44
Total -	82

Thus it appears that of the two lists, making together one hundred and forty vessels, three only have been condemned, and one hundred and fifteen have gone clear; and besides these, a great number of vessels have arrived and departed from the coasts of Norway, Holstein, and Jutland, of which I have not any particular accounts, and therefore they are not entered on the lists.

Of eighteen cases (exclusive of French captures) which were depending on the 9th of October, five of the Norway, and three of the Copenhagen cases have been favorably decided; there has not been one final condemnation, nor do I see reason to apprehend that more than one of those actually depending will be condemned; these may probably all be settled in the course of about five weeks.

[Enclosed in Mr. Erving's letter of November 10.]

[List of American vessels arrived since July 14, 1811.—N. B. Those of a prior date were not known to have arrived on the 15th July, when the last list was made out.]

NOVEMBER 1, 1811.

From the foregoing list, it results that the number of vessels which have arrived since the 15th July, (or arrivals not entered in the list of 15th July,) is eighty-two.

Of these there have been captured and released -	14
Condemned on justifiable grounds -	2
Gone clear without interruption -	44
French Captures, ("Hero," "Radius," "Roboreas," "Andromache,") -	4
Pending Norway cases -	7
Pending Denmark cases -	11
Total -	82

Pending cases, October 9, 1811.

In Norway—The *Brutus*, *Fenno*, master; *Laura*, *Lambert*—acquitted by inferior court; captors appeal. *Comet*, *Denis*; *Industry*, *Cook*; *Pilot*,

*This paper is not in Mr. Erving's file.

Captures of American Vessels.

Gower; Hebe, Pawson—released. President, Portis; condemned—English property.

In Copenhagen—The Washington, Brown, master; Maryland, Peters; Augustus, Flint; Nancy, Eveleth; Jeremiah, Russell; Horace, Leech—condemned in the inferior court; pending in the high court. Packet, Somes; Rover, Groves; Jane Maria, Moffatt—released. Hannah, Dennis; Two Generals, Courtois—double captures.

Of these, four Norway cases and three Copenhagen cases have been released:

Norway cases—"Comet," "Industry," "Pilot," "Hebe."

Copenhagen cases—"Packet," "Rover," "Jane Maria."

One Norway case condemned on justifiable ground. Ten cases actually pending.

GEORGE W. ERVING.

Extract:—Mr. Erving to Mr. Monroe, Secretary of State, dated

DECEMBER 23, 1811.

My last despatch relating to general business was of November 10.

No further captures have been made by the French privateers in this quarter; at Nyborg, close by the fort, a privateer called the General Durosnel, commanded by one Captain Massé, has lately boarded and taken possession of the "Olive Branch," Bradley, master, of Philadelphia, laden with German goods, and having the King's license. M. De Rosenkrantz has promised that she shall be delivered up forthwith; but as the papers of the ship have been put into possession of the French Consul by the privateersman, some considerable delay may yet take place; there can be no doubt, however, but that the Consul will be ordered by this Government to restore the papers, since the Prince of Echmuhl, (commanding at Hamburg,) instantly, on learning what had passed, saw fit to suspend Captain Massé.

Another privateer, called Nordsteirneir, or Northern Star, commanded by Captain Weide, lately cut out from the roads of Swinemunde in Prussia, the "Jane Maria," Moffatt, master, (a vessel some time ago released here.) Captain Moffatt and six of his crew being on shore, and two Prussian soldiers as guards on board, the privateer's intention was to have carried her into Rodstock; in that he failed, and the wind not allowing of his entering any other port, he was obliged to bring her to this place, where she arrived a few days since. The same privateer having formerly cut some Danish vessels out of a port in Holstein, and having consequently been prohibited from cruising, was ordered away instantly on his arrival. I claimed the restitution of the vessel; the Frenchmen were accordingly turned on shore; she is now occupied by Danish soldiers, and waits only for the arrival of the Captain and crew (for whom I have sent) to be entirely at liberty. The Prince of Echmuhl has also suspended this Captain Weide.

Finally, on the 16th instant, the Augustus,

Flint, and Horace, Leech, whose cases were mentioned in my despatch of November 10, as then pending, having been released, and proceeded on their voyage, were attacked between this and Elsinour by two French privateers; the American vessels escaped, but on their arrival at Elsinour were claimed by the privateers, and the commandant there, though he acquiesced in that pretension, thought it his duty to put them under embargo till he could receive the King's orders. I immediately made a suitable representation of this transaction, and the vessels are now put at the disposal of their several captains; by one of them I shall transmit this despatch.

He (Monsieur le Baron d'Alqui, lately Minister of France at Stockholm, now at Copenhagen,) has expressed himself to me in the fullest and fairest manner against the proceeding of the French privateers in general, and particularly in the cases above mentioned, assuring me that he shall make it his business to have the captains in question severely punished.

The lists of arrivals here, which I have transmitted with former despatches, included, as you will have observed, all the vessels which had been reported to me, whether entering or going out of the Baltic; yet they cannot be considered as complete. My correspondence at Elsinour, Messrs. Belfour, Ellah, Rainals, & Co., to whom I am very much indebted for a great deal of useful information, furnished me with lists of one hundred and two American vessels which entered the Sound, bound to St. Petersburg; we calculate sixty to have passed through the Belt; and, upon the whole, that about three hundred and fifty cargoes in and out have passed this year.

Extract—Mr. Erving to the Secretary of State.

FEBRUARY 12, 1812.

I have also looked at the results of the last year's accounts, and I can safely say, as I do with great satisfaction, that when the business is closed, not more than one in forty-six of the vessels which have passed (one-fourteenth of the captured) will have been condemned, which, in the actual situation of Europe, and under all the circumstances of our commerce, considered in its own nature, is even a smaller proportion than was to have been anticipated; however the results of former years may appear, I hope to make it evident that our Government has afforded as effectual and complete protection to the commerce during the last year, as is possible for neutral commerce in these times to receive.

[A is a list of vessels referred to in Mr. Erving's despatch of February 12, 1812.]

C.

David B. Warden, Consul of the United States, to the Secretary of State.

CASES OF CAPTURE.

Case of the American ship Julian.

The Julian left Philadelphia the 7th of May, 1810, bound to Gottenburg and any free port in the Baltic. On the 19th of June, in passing Fair

Captures of American Vessels.

island, she was hailed, in English, by a vessel of war, but not boarded, and continued her course for Gottenburg. On the 21st of said month she was captured off the Naze of Norway, by a Norwegian privateer, and carried into Christiansand. On the 27th of July, she was released by a decision of the Prize Court, with an award of damages. The captors appealed to the high court of Copenhagen, which confirmed the former decision. The papers were not received until the 7th of January; at this season it was impossible for the vessel to continue her voyage, and she was obliged to remain at Christiansand until the 10th of April, (nearly ten months detained,) when she sailed for Gottenburg, where she arrived on the 12th instant. Not finding a market there, the Captain, on the 23d of April, proceeded to St. Petersburg, and paid the usual toll at Elsinneur. On entering the Sound had been hailed and boarded by English ships of war, and was captured, on the 4th of May, off the island of Gothland, by the French privateer, the *Marie Louise*, and conducted to Dantzic. On the 12th instant, the Captain, supercargo, and crew, were interrogated by the French Consul at that place. On the 10th of September, 1811, the vessel and cargo were condemned by the Council of Prizes at Paris, on the following report, viz:

1st. That the captured crew acknowledged that the Julian's cargo consisted of colonial productions.

2d. That she was visited by several English war vessels.

3d. That the papers indicate that the supercargo thought it possible to procure false certificates of origin.

4th. That he corresponded with merchants of Liverpool.

5th. That it is so much the less doubtful that this vessel entered the Baltic under English convoy, as it is not proven that he paid the duties of the Sound in passing Elsinneur; therefore, it must be inferred that he himself was English; and that, for this reason, he was obliged to purchase, at a great expense, his freedom in Norway, where he ought to have been received as a neutral, if he were really an American; that, on this account, the whole is liable to condemnation without further delay.

The supercargo, William Bell, declares that the receipt of the duties of the Sound was delivered with the papers to the French Consul at Dantzic, who returned it to Captain Abbot, with the quarantine pass, and other papers.

Ship's papers—

1. Register.
2. Sea-letter.
3. Mediterranean pass.
4. Roll of equipage.
5. Bills of lading.
6. Manifest.
7. Clearance.
8. Declaration of owners.
9. Certificate of origin.
10. Certificates.

11. Instructions.

12. Certificates of damages, letters, London price current, &c.

Case of the American brig Catharine.

The Catharine sailed from Boston in April, 1810, with a cargo consisting of sugar, cocoa, cotton, and fustic, bound to Gottenburg and a market. On her passage to that port, in the month of June, she was captured by a Danish privateer off the coast of Norway, and conducted to a port of that country. By a decision of the Prize Court at Christiansand she was liberated. The captors appealed to the High Court of Admiralty at Copenhagen, which confirmed the former decision in the month of December. It was impossible to prosecute the voyage at this season; the Catharine remained in Norway until April, in which month she proceeded to Gottenburg, and, not finding a market there, she proceeded to Petersburg, passed the Sound, paid the duties at Elsinneur, and, continuing her voyage, was captured on the 3d day of May, off the island of Bornholm, by the French privateer, the *Jeune Adolphe*, who conducted her to Dantzic. On the 10th day of September, the brig and cargo were confiscated by a decree of the French Council of Prizes, which states—

“That the Catharine touched at Gottenburg, which was then visited by an English armed packet-boat; which indicates that this vessel, laden almost wholly with colonial productions and dyewood, was employed for the interest of English commerce; that, besides, it cannot be doubted that he entered the Baltic under an English convoy; and that, if he was not visited by the enemy's ships, of which there were there a great number, it was because he was himself an enemy under American disguise, and, therefore, the confiscation of the vessel and cargo is not attended with any difficulty.”

The supercargo, Ephraim Thayer, declares that the Catharine was not under convoy; that the voyage was, in every respect, legal.

Ship's papers—

1. Register.
2. Mediterranean and Turkish pass.
3. Acts of engagement.
4. Roll of equipage.
- 5 and 6. Bills of health.
7. Bills of lading.
8. Manifest.
9. Clearance.
10. Certificates of origin.
11. Instructions.
12. Accounts and clearance.
13. Decision of the Danish Prize Court.
14. Receipts for the duties at Fahrund.

Case of the ship Hercules.

The Hercules, of New Bedford, in the United States, sailed from Charleston, in South Carolina, the 22d of February, 1810, with a cargo of rice, cotton, tobacco, and logwood, destined for a free port of the Baltic. On the 27th of March, this vessel arrived at the roads of Gottenburg, to

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avoid the ice of the Baltic; and, on the 3d of April following, she sailed for the port of St. Petersburg, and was captured near Elsinour by a Danish privateer, by which she was conducted to Copenhagen, where she was detained until the first of May, when she was permitted, by a decision of the Council of Prizes, to continue her route to St. Petersburg. On the 2d of said month she was forcibly seized, near the island of Oland, by the French privateer, *Little Devil*, commanded by Captain Klinerath, who conducted her as a prize to Dantzic, which was adjudged as good and lawful by a decision of the Council of Prizes, passed on the 10th of September.

The neutrality of the vessel and cargo is completely established by the papers found on board, which were all duly authenticated. The cargo was consigned to the Captain, by three shippers, proprietors of the vessel, all citizens of the United States.

There was a certificate of the importation of the Campeachy wood legalized by the French Consul, and certificates of the origin and property of the cargo from the Danish and Swedish Consuls residing at the ports of embarkation. Besides these documents, there was a certificate stating that there was no Russian Consul at Charleston; and also a copy of the judgment of the Danish Council of Prizes, of the 13th of April, 1811, which ordered the vessel and cargo, truly American, to be put at the disposition of the Captain, he paying certain expenses incurred by the capture.

The following are the grounds of capture, as stated in the decision of the Imperial Council of Prizes:

1st. That the *Hercules* was laden with colonial productions.

2d. That she had no fixed destination, and was consigned to the Captain.

3d. That she touched at Gottenburg, which is considered as an English entrepôt.

4th. That she, without doubt, navigated under the protection of English convoy.

5th. That it was impossible she was not visited by the enemy's ships of war in approaching the isle of Anholt.

1st. The Captain and crew have declared that the vessel was not visited by any English ship or vessel, and there is no proof exhibited against this statement.

2d. Her destination was regular, seeing it was for a permitted port of the Baltic.

3d. At the departure of the *Hercules* from the United States there was even no suspicion that Gottenburg was considered as an enemy's port.

4th. The Captain and crew have declared, as is proven by the log-book, that this vessel was not under convoy, and there is no proof of their statement.

We have already stated that her papers were all regular and legal. An act of the custom-house shows that the Campeachy wood was imported in the vessel named the *Isabella*. The consignment of the cargo to the Captain, and the want of a supercargo, are hinted at as suspi-

cious—circumstances which often occur, and which are no index of simulation or fraud.

The Captain was detained a month at Hamburg before he was permitted to come to Paris, and he was not able to arrive at this city before the 6th of September, four days before the condemnation of the property; and, in this short space of time, he found it impossible to present the defence of which he was preparing the materials.

Ship's papers.

1. Register.
2. Mediterranean pass.
3. Sea-letter.
4. Bill of lading.
5. Certificate of destination.
6. Roll of equipage.
7. Manifest.
8. Certificate for cargo.
9. Clearance.
10. Certificate of origin.
11. Decision of the Danish Prize Court.

DAVID BAILIE WARDEN.

GREAT BRITAIN—IMPRESSMENTS.

[Communicated to the Senate, July 6, 1812.]

To the Senate of the United States:

I transmit to the Senate copies and extracts of documents in the archives of the Department of State, falling within the purview of their resolution of the 4th instant, on the subject of British impressments from American vessels. The information, though voluminous, might have been enlarged, with more time for research and preparation. In some instances it might at the same time have been abridged, but for the difficulty of separating the matter extraneous to the immediate object of the resolution.

JAMES MADISON.

JULY 6, 1812.

Extract of a letter from Thomas Jefferson, Esq., Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States at London, dated

DEPARTMENT OF STATE, June 11, 1792.

The peculiar custom in England of impressing seamen on every appearance of war will occasionally expose our seamen to peculiar oppressions and vexations. It will be expedient that you take proper opportunities, in the meantime, of conferring with the Minister on this subject, in order to form some arrangement for the protection of our seamen on those occasions. We entirely reject the mode which was the subject of a conversation between Mr. Morris and him, which was, that our seamen should always carry about them certificates of their citizenship. This is a condition never yet submitted to by any nation; one with which seamen would never have the precaution to comply; the casualties of their calling would expose them to the constant destruction or loss of this paper evidence, and thus

Great Britain—Impressment.

the British Government would be armed with *legal authority* to impress the whole of our seamen. The simplest rule will be, that the vessel being American shall be evidence that the seamen on board her are such. If they apprehend that our vessels might thus become asylums for the fugitives of their own nation from impress gangs, the number of men to be protected by a vessel may be limited by her tonnage, and one or two officers only be permitted to enter the vessel in order to examine the numbers on board; but no press-gang should be allowed ever to go on board an American vessel until after it shall be found that there are more than their stipulated number on board, nor until after the master shall have refused to deliver the supernumeraries (to be named by himself) to the press officer who has come on board for that purpose; and even then the American Consul shall be called in. In order to urge a settlement of this point before a new occasion may arise, it may not be amiss to draw their attention to the peculiar irritation excited on the last occasion, and the difficulty of avoiding our making immediate reprisals on their seamen here. You will be so good as to communicate to me what shall pass on this subject, and it may be made an article of convention to be entered into either there or here.

Extract of a letter from Thomas Jefferson, Esq., when Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States at London, dated

OCTOBER 12, 1792.

I enclose you a copy of a letter from Messrs. Blow and Melhado, merchants of Virginia, complaining of the taking away of their sailors on the coast of Africa by the commander of a British armed vessel. So many instances of this kind have happened, that it is quite necessary that their Government should explain themselves on the subject, and be led to disavow and punish such conduct. I leave to your discretion to endeavor to obtain this satisfaction, by such friendly discussions as may be most likely to produce the desired effect, and secure to our commerce that protection against British violence which it has never experienced from any other nation. No law forbids the seamen of any country to engage in time of peace on board a foreign vessel; no law authorizes such seamen to break his contract, nor the armed vessels of his nation to interpose force for his rescue.

Extract of a letter from Thomas Jefferson, Esq., Secretary of State under the Presidency of General Washington, to Thomas Pinckney, Esq., American Minister in London, dated

PHILADELPHIA, November 6, 1792.

I wrote you last on the 12th of October, since which I have received yours of August 29, with the papers and pamphlets accompanying it. I enclose you now the copy of a letter from Mr. Pintard, our Consul at Maderia, exhibiting another attempt at the practice on which I wrote

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you in my last, made by Captain Hargood, of the British frigate *Hyena*, to take seamen from on board an American vessel bound to the East Indies. It is unnecessary to develop to you the inconveniences of this conduct, and the impossibility of letting it go on. I hope you will be able to make the British Ministry sensible of the necessity of punishing the past, and preventing the future.

Extract from the instructions given by Timothy Pickering, Esq., Secretary of State, to Rufus King, dated

DEPARTMENT OF STATE, June 8, 1796.

Among the articles left unadjusted, one of the most interesting nature regards the impressing of American seamen. Mr. Pinckney was instructed on this head in June, 1792. You will see that the mode prescribed by the late act of Congress, of *certificating* our seamen, was pointedly reprobated. The long but fruitless attempts which have been made to protect them from British impresses prove that the subject is in its nature difficult.

The simplest rule, as remarked to Mr. Pinckney, would be, that the vessel being American should be evidence that the seamen on board her are such. But it will be an important point gained, if on the high seas our flag can protect those of whatever nation who shall sail under it. And for this humanity, as well as interest, powerfully plead. Merchant vessels carry no more hands than their safety renders necessary. To withdraw any of them on the ocean is to expose both lives and property to destruction. We have a right, then, to expect that the British Government will make no difficulty in acceding to this very interesting provision. And the same motives should operate with nearly equal force to procure for us the like exemption in all the British colonies, but especially in the West Indies. In the latter the consequence of an impress is the detention of the vessel. By the detention the vessel is injured or destroyed by the worms, and the remnant of the crew exposed to the fatal diseases of the climate. Hence a longer detention ensues; the voyage becomes unprofitable, if not ruinous to the merchant; and humanity deplors the loss of many valuable lives. But there is another cogent reason for the absolute exemption from impresses in the British colonies: that the practice will be, as it always has been, attended with monstrous abuses; and the supreme power is so remote, that the evils become irremediable before redress can even be sought for. To guard against abuses on the part of American citizens, every master of a vessel on his arrival in any port of the British colonies may be required to report his crew at the proper office. If afterwards any addition be made to them by British subjects, these may be taken away. In the ports of Great Britain and Ireland the impress of British subjects found on board our vessels must doubtless be admitted. But this should be controlled by regulations to prevent insults

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and injuries, and to administer prompt relief where American citizens (which will assuredly happen) shall be mistaken for British subjects.

There are three classes of men, concerning whom there can be no difficulty: 1st, Native American citizens; 2d, American citizens, wherever born, who were such at the definitive Treaty of Peace; 3d, Foreigners, other than British subjects sailing in American vessels, and whose persons ought to be sacred, as it respects the British, as those of native citizens. The fourth class consists of British-born subjects, but who, or many of whom, may have become citizens subsequent to the Treaty of Peace, or who hereafter may be admitted to the rights of citizens. It is this class alone about which any pretence of right to impress can be made. With regard to these, it may be attempted to protect them as well in time of war as of peace, in the following cases: First, when they shall have served in American vessels, public or private, for the same term in which foreigners serving in British vessels would require the rights of British subjects, which is understood to be three years; or, secondly, if so much cannot be obtained, when those persons, originally British subjects, shall have resided five years in the United States, and been formally admitted to the rights of citizens according to our laws.

It must often happen that sailors will lose their certificates; provision should therefore be made for the admission of other reasonable proof of their citizenship, such as their own oaths, with those of the masters, mates, or other creditable witnesses. The rolls of the crew or shipping-papers may also be authenticated by the collectors of the customs; and then they ought to be admitted as of equal validity with the individual certificates.

Mr. Pickering to Mr. King, dated

DEPARTMENT OF STATE, *Sept. 10, 1796.*

I enclose a letter from Francis S. Taylor, deputy collector of Norfolk, relative to four impressed seamen. It appears to be written with candor, and merits attention. If, as the captain of the *Prevoyante* (Wemyss) says, the dignity of the British Government will not permit an inquiry on board their ships for American seamen, their doom is fixed for the war; and thus the rights of an independent neutral nation are to be sacrificed to British dignity! Justice requires that such inquiries and examinations should be made, because the liberation of our seamen will otherwise be impossible. For the British Government, then, to make professions of respect to the rights of our citizens, and willingness to release them, and yet deny the only means of ascertaining those rights, is an insulting tantalism. If such orders have been given to the British commanders, (and Mr. Liston's communication in the conversation of which I sent you a copy in my letter of the 31st ult. countenances the idea,) the agency of Colonel Talbot and Mr. Trumbull will be fruitless, and the sooner we know it the better. But I would

fain hope other things; and if the British Government have any regard to our rights, any respect for our nation, and place any value on our friendship, they will even facilitate to us the means of relieving our oppressed citizens. The subject of our impressed seamen makes a part of your instructions; but the President now renews his desire that their relief may engage your special attention. I am, sir, &c.

Extract of a letter from Mr. Pickering to Mr. King, dated

DEPARTMENT OF STATE, *Oct. 26, 1796.*

I think it is mentioned in your instructions that the British naval officers often impress Swedes, Danes, and other foreigners, from the vessels of the United States; they have even sometimes impressed Frenchmen. If there should be time to make out a copy of a protest lately received, it shall be enclosed, describing the impress of a Dane and a Portuguese. This surely is an abuse easy to correct. They cannot pretend an inability to distinguish these foreigners from their own subjects, and they may, with as much reason, rob American vessels of the property or merchandise, of Swedes, Danes, and Portuguese, as seize and detain in their service the subjects of those nations found on board American vessels. The President is extremely anxious to have this business of impresses placed on a reasonable footing.

Extract of a letter from Mr. Pickering, Secretary of State, to Silas Talbot, Esq.

DEPARTMENT OF STATE, *August 15, 1797.*

I was pleased with your success in obtaining relief for so many American seamen, as mentioned in your several letters; but your last containing the orders of Admiral Parker to his captains, no longer to obey the writs of *habeas corpus*, gave me much uneasiness. Yesterday I gave those letters to the British Minister, Mr. Liston, and wish he may do something to afford you a prospect of further success; but I fear, notwithstanding he is perfectly well disposed to administer relief, that his remonstrances or requests will have too little effect. I shall transmit copies of these letters to Mr. King, our Minister in London, to lay before the British Ministry. If any naval officer shall have committed such an outrage on any American seamen as "to bring them to the gangway" as you mention, or to inflict any kind of punishment on them, especially for seeking opportunities to inform you of their situation, for the purpose of obtaining the just relief to which they are entitled, pray endeavor to get proper proofs of the fact, that I may make it the subject of a special representation to the British Government.

Extract of a letter to Rufus King, Esq., from the Secretary of State, dated

TRENTON, *Oct. 3, 1797.*

Lord Grenville's observations on the act of Congress for the protection and relief of Ameri-

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can seamen, present difficulties which demand consideration at the ensuing session. But your reasoning in your letter to his Lordship of the 30th of last November, is conclusive against the British pretences to retain real American seamen, who are married in their dominions, or who have voluntarily entered on board British vessels. It behooves the honor and faith of the British Government to adhere to their principle of natural allegiance wholly, or to renounce it wholly; and an answer on this point would have become his Lordship's candor.

I consider Colonel Talbot's agency in the West Indies to be no longer very important. The rigid conduct of Admiral Sir Hyde Parker (who from the beginning has thrown obstacles in the way) leaves but little room to get our seamen released. The opposition of the officers in general induced Colonel Talbot to take out writs of *habeas corpus* at Jamaica, by which directly, or in their consequences, he obtained the discharge of near fifty seamen; but Admiral Parker has, for some time past, forbidden his officers to pay any obedience to such writs; and Colonel Talbot informs me that some of our seamen have been punished for attempting to send letters to him to inform him of their situation. Mr. Liston has assured me that the British officers have orders not to impress any American seamen, and of course not to retain against their will any already impressed; but if they persist in obstructing every channel of information and proof of their citizenship, such orders are, and will continue, deceptive.

The Secretary of State to the President of the United States.

DEPARTMENT OF STATE, Feb. 20, 1800.

The Secretary has the honor to lay before the President:

1. Mr. Liston's note of February 2, 1800, with papers referred to relative to the rescue of three American vessels from the hands of British captors, and for the restoration of which he is instructed by his Government to apply.

2. Mr. Liston's note of the 4th February, together with his project of a treaty for the reciprocal delivery of deserters; which appears to the Secretary utterly inadmissible, unless it would put an end to impressments, which Mr. Liston seemed to imagine, while the seventh paragraph of his project expressly recognises the right of impressing British subjects, and consequently American citizens, as at present.

TIMOTHY PICKERING.

PHILADELPHIA, Feb. 2, 1800.

R. Liston presents his respects to Colonel Pickering, Secretary of State.

I have, from time to time, taken the liberty of making verbal complaints to you, sir, respecting the practice lately become frequent among the masters and supercargoes of American merchantmen, of rescuing, by force or by fraud, such vessels as have been detained by the commanders of

His Majesty's ships of war, with a view to future trial in a Court of Admiralty.

I in particular mentioned the cases stated at large in the enclosed papers.

The first is that of the brigantine *Experience*, detained on the 25th May, by Captain Poyntz, of His Majesty's ship *Soleby*. She came from Cambridge; was said to be bound for Charleston, South Carolina, and was loaded with logwood. The cargo was suspected to be enemies' property, and she was afterward found to have a complete set of Spanish papers.

The American master, Hewit, and Howe, the supercargo, with the consent of the British seamen who were put on board to navigate her, overpowered the prize-master, (Mr. Bryce,) kept him prisoner several days, and at last, by threats and violence, forced him to leave the vessel and go on board of a schooner bound for New Providence.

The second is the case of the ship *Lucy*, commanded by a Mr. James Conolly, (a native of Ireland, calling himself a citizen of the United States,) which was stopped on the 3d of June, by Captain Ferrier, of His Majesty's ship *York*. This vessel had smuggled one hundred and eighty-seven new negroes from Jamaica. The captain found means to forge a clearance from the custom-house of Kingston, and afterwards loaded goods at the Havana, partly the property of enemies, and partly belonging to a Mr. Courtauld, a British subject, who recently held a place in the customs under His Majesty's Government.

A Lieutenant, a Quartermaster, and ten men, were put on board the *Lucy* to conduct her to Jamaica; and with a view to accommodate the master and the other persons who were found in the vessel, Mr. Conolly, Mr. Courtauld, his nephew, two other passengers, with servants, and seamen, amounting to twelve in all, were permitted by Captain Ferrier to remain on board on their parole. They, however, secretly armed themselves, and in the night surprised the watch, confined the prize-master and the British seamen, and carried the ship to Charleston.

The third case is that of the *Fair Columbian*, Edward Casey, master, detained by His Majesty's ship the *Hind*, in company with the sloop of war the *Swan*; she had come from the Havana; had no sea brief or register on board; was commanded by a person who had deserted about nine months before from His Majesty's ship *Polyphemus*; and, according to the concurrent testimony of eight or nine American masters of American vessels which had sailed in company with her from the Havana, was loaded with Spanish property.

These circumstances affording a sufficient cause of suspicion, she was ordered for Bermuda; but the master, by the use of bribery and intoxication, succeeded in inducing the prize-master and crew to permit her to be carried into the port of Baltimore.

It is unnecessary to employ arguments to prove that these irregularities are an infringement of the law of nations. The tenor of the instructions given by the President to the vessels of war of the United States, involves an acknowledg-

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ment of the right of the King's ships to search and detain such American vessels as are suspected of being loaded with enemies' property, or with contraband of war destined for an enemy's port. It remains that I should add, that I have now received express orders from His Majesty to claim, as an act of justice, (which is expected from the candor of the Federal Government, and the good understanding which subsists between the two countries,) that the vessels, of which the masters and supercargoes have thus illegally repossessed themselves, be delivered up to me, together with the British seamen, and the deserters who have assisted them in rescuing them out of the hands of the prize-masters, that they may be sent to some one of His Majesty's colonies, to be there dealt with according to law.

PHILADELPHIA, Feb. 4, 1800.

R. Liston presents his respects to Colonel Pickering, Secretary of State.

I have the honor, sir, of enclosing a duplicate of my letter of the 18th December to Vice Admiral Sir Hyde Parker, soliciting the discharge of certain American seamen, said to be detained on board of his squadron on the Jamaica station; and I flatter myself it will have the desired effect, although it be not accompanied by copies of the documents attesting their citizenship. I cannot, however, omit this opportunity of calling to your remembrance what I have frequently stated in conversation, that while the papers called "protections" are granted with a fraudulent intention, or without a proper examination of facts by inferior magistrates or notaries public in the United States, and while they can easily be procured by such natural-born subjects of His Majesty as choose to abandon his service in the hour of danger, it is not to be expected that any regard will be paid to them by the commanders of British ships of war. And I beg leave once more to urge you to take into consideration, as the only means of drying up every source of complaint and irritation upon this head, the proposal I had the honor of making two years ago (in the name of His Majesty's Government) for the reciprocal restitution of deserters.

1. Whereas, by the twenty-eighth article of the Treaty of Amity, Commerce, and Navigation, concluded at London on the nineteenth day of November, 1794, between His Britannic Majesty and the United States, it was agreed, in order to facilitate intercourse, and obviate difficulties, that other articles should be proposed and added to the treaty above-mentioned, which articles, from want of time and other circumstances, could not then be perfected; and that the said parties should, from time to time, regularly treat of and concerning such articles, and should sincerely endeavor so to form them, as that they might conduce to mutual convenience, and tend to promote mutual satisfaction and friendship, and that the said articles, after having been duly ratified, should be added to and make a part of the above-mentioned treaty:

2. And whereas it will greatly conduce to the maintenance and improvement of that friendship and harmony now subsisting between the contracting parties, that measures should be taken by mutual consent for the giving up of deserters on each side:

3. Therefore, the parties have, with this view, appointed their respective Ministers to meet, negotiate, and conclude, on this subject; that is to say, His Britannic Majesty, Robert Liston, Esq., His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America; and the United States, ———.

4. Who, having communicated to each other their respective full powers, have agreed on the following articles to be added to the above-mentioned treaty, and to form a part thereof.

ADDITIONAL ARTICLE.

5. It is agreed that no refuge or protection shall be offered in the territories or vessels of either of the contracting parties to the captains, officers, marines, sailors, or other persons, being part of the crews of the vessels of the respective nations, who shall have deserted from the said vessels; but that, on the contrary, all such deserters shall be delivered up on demand to the commanders of the vessels from which they have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made by an exhibition of the register of the vessel or ship's roll, or authenticated copies of the same, or by other satisfactory evidence, that the deserters so demanded were actually part of the crew of the vessels in question.

6. With a view to the more effectual execution of this article, the Consuls and Vice Consuls of His Britannic Majesty and of the United States may cause to be arrested all persons who have deserted from the vessels of the respective nations as aforesaid, in order to send them back to the commanders of the said vessels, or to remove them out of the country. For which purpose the said Consuls and Vice Consuls shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, as aforesaid, that they were part of the said crews; and on this demand, so proved, the delivery shall not be refused; and there shall be given all aid and assistance to the said Consuls and Vice Consuls for the search, seizure, and arrest of the said deserters, who shall even be detained and kept in the prisons of the country at their request and expense, until they shall have found an opportunity of sending them back, or removing them as aforesaid. But if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

7. It is, however, understood that this stipulation is not to extend to authorize either of the parties to demand the delivery of any sailors, subjects, or citizens belonging to the other party;

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who have been employed on board the vessels of either of the respective nations, and who have, in time of war or threatened hostility, voluntarily entered into the service of their own sovereign or nation, or have been compelled to enter therein, according to the laws and practice prevailing in the two countries respectively.

8. It is further agreed that no refuge or protection shall be afforded by either of the contracting parties to any soldiers who may desert from the military service of the other; but that, on the contrary, the most effectual measures shall be taken in like manner as with respect to sailors, to apprehend any such soldiers, and to deliver them to the commanding officers of the military posts, forts, or garrisons, from which they have deserted, or to the Consuls or Vice Consuls on either side, or to such other person as may be duly authorized to demand their restitution.

9. It is, however, understood that no stipulation in this additional article shall be construed to empower the civil or military officers of either of the contracting parties forcibly to enter into the public ships of war, or into the forts, garrisons, or posts of the other party, or to use violence to the persons of the land or sea officers of the respective nations, with a view to compel the delivery of such persons as may have deserted from the naval or military service of either party as aforesaid.

The Secretary of State to Mr. Liston.

DEPARTMENT OF STATE,
Philadelphia, May 3, 1800.

SIR: In reference to your letter of the 2d of February last, I soon after took occasion to intimate to you what appeared to be the President's way of thinking on the subject. I have now the honor to state to you, that while, by the law of nations, the right of a belligerent Power to capture and detain the merchant vessels of neutrals, on just suspicion of having on board enemy's property, or of carrying to such enemy any of the articles which are contraband of war, is unquestionable; no precedent is recollected, nor does any reason occur which should require the neutral to exert its power in aid of the right of the belligerent nation in such captures and detentions. It is conceived that, after warning its citizens or subjects of the legal consequences of carrying enemy's property or contraband goods, nothing can be demanded of the Sovereign of the neutral nation but to remain passive. If, however, in the present case, the British captors of the brigantine *Experience*, Hewit, master; the ship *Lucy*, James Conolly, master; and the brigantine *Fair Columbia*, Edward Carey, master; have any right to the possession of those American vessels, or their cargoes, in consequence of their capture and detention, but which you state to have been rescued by their masters from the captors, and carried into the ports of the United States, the question is of a nature cognizable before the tribunals of justice, which are opened to

hear the captors' complaints; and the proper officer will execute their decrees.

You suggest that these rescues are an infringement of the law of nations. Permit me to assure you that any arguments which you shall offer to that point will receive a just attention.

With regard to the British seamen and deserters who have assisted in the rescues, with great truth I am authorized to assure you that the Government have no desire to retain them; but besides that the many months elapsed since those events, and the consequent dispersion of the men, would probably render their delivery impracticable, it is not known to be authorized by any law. This has brought into view your project of stipulations for the mutual delivery of deserters, whether seamen or soldiers; and I have now the honor to enclose a counter-project, by which you will see the objections which have occurred to your propositions. The President has been pleased to direct and empower me to negotiate with you on this subject, and it will afford him great pleasure if we can make a satisfactory arrangement.

I have the honor to be, &c.

TIMOTHY PICKERING.

ROBERT LISTON, Esq.

1. It is agreed that no refuge or protection shall be afforded in the territories or vessels of either of the contracting parties, to the officers, mariners, or other persons, being part of the crews of the vessels of the respective nations who shall desert from the same; but that, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf; provided, that proof be made, by exhibition of the shipping paper or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters so demanded were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of this article, the commanders of the vessels from which such desertions shall take place, and the Consuls and Vice-Consuls of His Britannic Majesty and of the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations as aforesaid; and for this purpose, the said Commanders, Consuls and Vice-Consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proof of their desertion as aforesaid; and on this demand and satisfactory proof the delivery shall be made. And there shall be given all necessary aid to the said Commanders, Consuls, and Vice-Consuls, for the search, seizure, and arrest of the said deserters, who, if it be requested, shall be detained and kept in prison, at the expense of those who demand them as aforesaid, until they can be put on board their own or other vessels of their nation, or be otherwise sent back to their own country; provided that, if this be not done within three months

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from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed that no refuge or protection shall be afforded by either of the contracting parties to any non-commissioned officer or soldier who may desert from the military service of the other; but, that, on the contrary, the most effectual measures shall be taken, in like manner as with respect to sailors, to apprehend any such non-commissioned officers and soldiers, and to deliver them to the commanding officers of the military posts, forts, or garrisons, from which they have deserted, or to the Consuls or Vice-Consuls on either side, or to such other person as may be duly authorized to demand their restitution.

4. It is, however, understood that nothing in these stipulations shall be construed to empower the civil, military, or naval officers of either of the contracting parties forcibly to enter into the territory, forts, posts, or vessels of the other party, or to use violence to the persons of the commanders or other officers of the forts, posts, or vessels of the other party, with a view to compel the delivery of such persons as shall desert as aforesaid.

The Secretary of the Treasury to the President.

TREASURY DEPARTMENT, *April 14, 1800.*

The Secretary of the Treasury respectfully submits the following observations, in obedience to the direction of the President of the United States.

The project of a treaty proposed by the Minister of His Britannic Majesty, for the reciprocal delivery of deserters from the land and naval service, does not sufficiently provide against the impressment of American seamen, and is therefore deemed inadmissible. The ideas of the Secretary of the Treasury on this subject are stated in the counter-project hereto subjoined, and will be found to be essentially the same as those of the Secretary of State.

The Secretary of the Treasury fully concurs in opinion with the Secretary of State, respecting the reply proper to be given to the notes of Mr. Liston, dated 2d and 4th February last, demanding restitution of several American vessels captured by British cruisers, and rescued by the crews of said vessels.

All which is respectfully submitted by.

OLIVER WOLCOTT,

Secretary of the Treasury.

Additional articles proposed to be added to the Treaty of Amity, Commerce, and Navigation, concluded at London, on the 19th day of November, 1794, and to form a part of said Treaty.

1. It is agreed that no refuge or protection shall be afforded to the officers, mariners, or other persons, being part of the crews of the vessels of the respective nations, who shall hereafter desert from the same; but that, on the contrary, all such deserters shall be delivered up on demand, to the commanders of the vessels from which they shall

have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf; provided that proof be made within two years after the time of desertion, by an exhibition of the shipping paper, or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters, so demanded, were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of the foregoing article, the commanders of the vessels from which such desertions shall take place, and the Consuls and Vice-Consuls of His Britannic Majesty and the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations as aforesaid; and for this purpose the said Commanders, Consuls, and Vice-Consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proofs of their desertion, as aforesaid; and on such demand and satisfactory proof, as aforesaid, the delivery shall be made. And there shall be given all aid and assistance to the said Consuls and Vice-Consuls for search, seizure, and arrest of the said deserters, who, if it be requested, shall be kept and detained in the prisons of the country, at the expense of those who demand them, as aforesaid, until they can be put on board their own or other vessels of their nation, or be otherwise sent back to their own country; provided that if this be not done within three months from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed, that no refuge or protection shall be afforded by either of the contracting parties to any person who shall hereafter desert from the military land service of the other; but that, on the contrary, the most effectual measures shall be taken, in like manner, and on like conditions, as with respect to sailors, to apprehend any such deserters from the service, and to deliver them to the commanding officers of the military posts, forts, or garrisons from which they shall have deserted, or to the Consuls or Vice-Consuls on either side, or to such other persons as may be duly authorized to demand their restitution.

4. It is, however, understood, that nothing in the foregoing stipulations shall be construed to empower the civil or any other officers of either party forcibly to enter the forts, posts, or any other place within or under the jurisdiction of the other party; nor to empower the naval commanders, or other officers of either party, forcibly to enter any public or private vessel of the other party on the high seas, with a view to compel the delivery of any person whatever: on the contrary, it is expressly declared to be the understanding of the contracting parties, that the mutual restitutions of persons claimed as deserters shall only be made by the free and voluntary consent of the military officers employed in the land service, or the commanders of the public or private ships or vessels

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of the two parties, or in pursuance of the decisions of the courts, judges, or other competent civil officers of the two nations, in all cases arising within their respective jurisdictions.

OLIVER WOLCOTT.

APRIL 14, 1800.

WAR DEPARTMENT, April 14, 1800.

The Secretary of War respectfully submits the following observations, in obedience to the direction of the President of the United States.

The Secretary very much doubts the soundness of the principle upon which a refusal to deliver up merchant vessels, captured by a belligerent Power, is founded. It appears to the Secretary, considering the question upon general ground, that merchant vessels belonging to a neutral nation, seized by a belligerent Power on the high sea, for violating the laws of neutrality, cannot, agreeably to the law of nations, be rightfully retaken by a vessel of the neutral Power, nor, if retaken and brought into a port of the neutral nation, rightfully withheld by that nation from the captors. It results from this principle, that a vessel or its cargo, being prize or no prize, cannot be rightfully determined in other tribunals than those of the nation exercising the right of capture, the right to try in the appropriate courts of the country of the captors following the right to capture.

It may be asked, is the right which a belligerent Power acquires to the property of its enemy, seized in a neutral vessel, full and perfect? To this it may be answered, that the right thus acquired is full and perfect, as relative to exempting it from capture by any neutral vessel. For if the merchant vessel which contains the property may, after its being seized or possessed by the belligerent Power, use force to recover it, so may every other merchant vessel belonging to the neutral nation. Further, if the crews of our neutral vessels may recapture, it would seem that our vessels of war could also recapture; the contrary whereof is to be collected from the statute which authorizes recaptures of our vessels taken by the French. But the state of neutrality does not permit a neutral Power to espouse, in any manner whatever, either side, or to prefer one to the other belligerent party. It is the indispensable duty of neutrals, *Bello se non interponant*. To recapture the property of either from the other is clear meddling in the war, and direct violation of every principle of neutrality.

If the property in a neutral vessel was enemy's property, or contraband of war, the belligerent vessel, having once made prize of it, has a clear right to it, of which the crew of the neutral vessel cannot divest her by recapture. To the Secretary it appears a sound position, that neutral nations ought to regard the parties at war as lawful proprietors of all that they take from each other; consequently, it cannot be right for the citizens of a neutral nation to interfere to rescue from one of the belligerent Powers property which he had taken belonging to the other. A neutral vessel loads with enemy goods at a known risk,

that of their being subject to capture, and under the obligation only to use all due endeavors to avoid an enemy or capture. Here obligation of the neutral ends, for she is not permitted, if taken, to recover the goods by recapture; the nation only to whose citizens or subjects they belonged (or the parties at war with the captors,) possessing that right.

By the law of nations, a neutral vessel met at sea is liable to be seized by a vessel of war, as the case may be, of either of the belligerent Powers. This law gives the additional right, if the belligerent vessel is not satisfied with his search, to carry the neutral vessel into the country of the captors, there to be examined, tried, and condemned, (if she has violated the neutrality,) in its courts established for the inquiry into the subject, and to compel, by force, the neutral to submit to search, and also to be carried into the country of the captors.

If such ships shall be attacked in order to an examination and shall refuse, they may be assaulted like a house supposed to have thieves or pirates in it, refuses to yield up their persons, may be broken open by the officer, and the persons resisting may be slain. (Malloy, *De Jure Mar. et Nav.* l. 1, c. 3, § xiii.)

It also appears to the Secretary, that if a neutral vessel found at sea refuses, and resists by force, to be searched, she, for such conduct, is liable to be condemned as lawful prize. If the law of nations gives a right to search, it cannot allow a right to resist a search by force. The two rights cannot exist. They are perfectly inconsistent. If the first is lawful, the latter must be unlawful, consequently liable to some punishment, or the right would be nugatory. If the law of nations gives also a right to carry the neutral vessel into the country of the captors' courts, this right also cannot be resisted or opposed by force, without violating the law. It would seem to the Secretary that the persons who resist the search by force, or resist or prevent by force the neutral vessels being carried into the captors' country for trial, must, by such conduct, be guilty of a breach of the law of nations, and, if so, they must be liable to some punishment; and if the nation to which they belong does not punish them on application to that effect, it thereby becomes a party to the wrong. The Secretary cannot think that either the right of search, or of carrying the neutral into the country of the captors is founded on superiority of force, but on the law of nations. This opinion the Secretary rests upon Vattel, l. 3. c. 7, § cxiv; Marten's *Law of Nations*, No. 323; Lee on *Captures*; the *Report on the Silesia Loan*, &c.

The Secretary, however, cannot venture to disapprove of the answer proposed to be given by the Secretary of State. He does not know of any precedent of a neutral nation exerting its power in any similar case of recapture in aid of the right of the belligerent Power; but, unquestionably, there is reason so to do, if the idea he has presented of the law of nations is accurate. He thinks it probable, also, without pretending

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to be positive, that instances of recapture like the present are few.

In some future time America may stand in relation to other Powers as Great Britain stands at this time, and may wish to make the same claim that she does now. The Secretary greatly doubts, but with great deference, whether the cases in question of recaptures are cognizable before our courts of justice; the subject seems rather to belong to the Executive. Peculiar caution may be proper, for fear at some future period our proceeding may be urged against us to our detriment. If it appears necessary to reconsider the subject, the Secretary would beg leave to suggest the propriety of adding, that as there is no provision by treaty or opposite law of the United States on the subject, it might be advisable to make some stipulation by treaty.

The Secretary is inclined to believe, that, if any, there is not sufficient remedy for the delivery of deserters from British vessels. He has understood that some of our courts had determined that the law of Congress concerning seamen relates to American seamen only. The claim for British seamen who have or may desert is just, and ought to be reciprocal. The Secretary thinks the project of Mr. Liston may be substantially accepted, except the seventh article, which seems to provide that the United States shall not demand the delivery of any sailors, although their citizens, if they have been employed on board British vessels, and who have in time of war or threatened hostilities voluntarily entered into the British service, or have been compelled to enter therein, according to the law and practice prevailing in Great Britain. This article is very inaccurately expressed, for it says "employed or entered into the service of their own sovereign or nation, or compelled to enter therein," &c. If this article means what it is apprehended it does, it is wholly inadmissible. It establishes a principle reprobated by this country. The counter project of the Secretary of State in substance meets the Secretary's approbation; but it is submitted whether the adoption of part of the draught by the Secretary of the Treasury will not improve it.

All which is respectfully submitted.

JAMES MCHENRY.

Mr. Stoddart, Secretary of the Navy, to the President.

NAVY DEPARTMENT,

April 23, 1800.

The Secretary of the Navy, in obedience to the order of the President, respectfully submits the following observations on the matters of reference to the Heads of Departments.

The proposed letter of the Secretary of State, in answer to Mr. Liston's notes of the 2d and 4th February, demanding the restitution of American vessels captured by British ships, and rescued by their own crews, appears to the Secretary of the Navy entirely proper. He believes the demand is neither sanctioned by precedent nor the law of nations. Should it be otherwise, Mr. Liston, as invited by the Secretary of State, will show it.

Mr. Liston's project of an article on the subject of deserters secures to his nation everything it could require, but affords no security to the United States in a point of equal interest with them, that their merchant vessels will not be interrupted on the high seas, in order to impress from them their crews, under pretence of being deserters.

It is certainly just that the United States should afford to Great Britain all the reasonable security they have a right to expect from a friendly nation, against the loss of their seamen—a loss of all others the most serious to a nation, depending on maritime strength for its power, perhaps for its safety. But it is equally just that the United States should be secured against the impressment of their seamen on the high seas, and the interruption of their merchant vessels. The project of the Secretary of the Treasury meets the full approbation of the Secretary of the Navy. It seems to comprehend everything that ought to be required on either side; but it is so desirable to have a right understanding on a subject so likely to produce ill blood, that, rather than not agree, the Secretary of the Navy thinks the word *hereafter*, if positively insisted on, may be struck out of that project; and submits whether, for the sake of accommodation, the limitation of time in which deserters may be claimed, if strenuously urged by Mr. Liston, may not be extended to three years. The Secretary is clearly of opinion that it is better to have no article, and to meet all consequences, than not to enumerate merchant vessels on the high seas among the things not to be forcibly entered in search of deserters.

All of which is respectfully submitted.

BEN. STODDART.

The Attorney General of the United States to the President.

PHILADELPHIA, Feb. 26, 1800.

SIR: In obedience to your direction to report my opinion upon the matters contained in the two letters of His Britannic Majesty's Minister to the Secretary of State, dated 2d and 4th instant, the following is respectfully submitted to your consideration:

In the first mentioned letter a claim is made, by the express order of His Britannic Majesty, that three American merchant vessels, namely, the brigantine Experience, the ship Lucy, and the brigantine Fair Columbian, which had been stopped and detained upon the high seas by several British ships of war, under a suspicion of having enemies' property on board, and afterwards taken out of the hands of the prize-masters, (the two first by force, and the last without force,) and brought into the United States, should be delivered up to the Minister, together with the British seamen and deserters who assisted in those rescues, that they may be sent by him to some one of the British colonies to be there dealt with according to law. This claim is to be considered as it relates to the American ships, and as it relates to the British seamen.

The American Ships.

No stipulation in the treaties between the two nations authorizes the demand for restitution of the American ships. It is therefore to be decided by the practice of friendly nations, which, upon this subject, is the only law.

It is not denied that a belligerent has a right to stop a neutral ship on the high seas, suspected to have on board either contraband merchandise destined to an enemy's port, or enemies' goods, and a right to send such neutral ship to a competent court for examination and trial; and it is equally true that this right is recognised in the President's instructions to the American ships of war. But while the right of searching neutral ships is acknowledged, it is not acknowledged that the sovereign of the neutral nation is under any obligation, by active measures, to aid and assist the sovereign of the belligerent nation in the exercise of this right. It is a right derived from war, which the belligerent nation is suffered to exercise in consequence of its superior force, upon condition that reasonable satisfaction be made in all cases of unjust detention to the neutral ship; and all that is expected of the sovereign of the neutral nation is to remain passive.

The practice of searching and detaining neutral ships, being grounded on the right which one enemy has of injuring and weakening the other, the neutral nation permits her merchant ships, under certain circumstances, to be stopped, treated, and held as an enemy by the belligerent; but the belligerent, in so doing, must depend on his own strength and means, and may not call upon the sovereign of the neutral to aid him in enforcing the rights of war against his own neutral subjects, in those cases where no positive stipulations have been made by treaty. Hence arises the practice of putting on board a neutral ship, when detained and sent for adjudication, a prize-master and a sufficient number of men for carrying her into port against the will of the neutral.

That a neutral nation should be required to exert its power in aid of the right of detaining and searching its own ships, which belligerents are allowed to exercise, is believed to be without precedent. If ever a restitution of neutral ships detained and rescued under similar circumstances has been claimed by the sovereign of a belligerent nation from the Government of the neutral nation, the case is unknown to me. Such a claim is believed never to have been made, or, if made, never granted.

Whatever right the British captors have (if any they have) to the possession of the American ships, is of a nature cognizable before the tribunals of justice, which are open to hear their complaints.

For these reasons the President is advised to abstain from any act for the restitution of the ships, and that the British Minister be informed that this part of the claim cannot be complied with.

The British Seamen.

In demanding the British seamen who were brought in the repossessed vessels into the United States, I see nothing improper or unreasonable. These may be apprehended by warrants to be issued by any justice of the peace, upon due proof in those States where the State laws have so provided; and being apprehended, may be delivered to the master or other person duly authorized to receive them. The act of Congress concerning seamen is believed to be confined to American seamen only, and, consequently, will afford no aid or remedy in the present case; and the remedy under the State laws may not be always found to answer the purpose. The claim of the British seamen in the present instance being reasonable, the Minister may be answered that every assistance shall be given for the recovery of them which the laws of this country admit and direct.

It certainly is an object of particular concern to the British nation to come to an agreement with the United States relative to deserters from the sea service, and it is not less interesting to the United States to come to an agreement with Great Britain relative to the impressment of American seamen. The project of an article relative to deserters, as proposed by Mr. Liston, so far as I understand it, appears to be reasonable; but the seventh clause of that project is so expressed as not to be certainly understood by me, and will require to be otherwise expressed, that its meaning may not be misapprehended. If this article is associated with another concerning the impressment of American seamen in terms satisfactory to our Government, I think it will be highly advisable to agree upon such stipulations. The one will be very agreeable to the British, and the other to the American nation, and especially at a time when the sensibility of the two nations seems to be a little excited upon those subjects. A proposal of this kind I think should be made without delay to the British Minister here.

I am, &c.

CHARLES LEE.

JOHN ADAMS, *President of the United States.*

APRIL 30, 1800.

The Attorney General, having read and considered the letter of the Secretary of State, and project of an article drawn by the Secretary of the Treasury on the subject of deserters, which are proposed to be sent to the British Minister here, expresses his entire approbation of the same.

Extract of a letter from John Marshall, Esq., Secretary of State, to Rufus King, Minister Plenipotentiary of the United States at London.

DEPARTMENT OF STATE, *Sept. 20, 1800.*

The impressment of our seamen is an injury of very serious magnitude, which deeply affects the feelings and honor of the nation.

This valuable class of men is composed of natives and foreigners, who engage voluntarily in our service.

No right has been asserted to impress the na-

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tives of America. Yet they are impressed; they are dragged on board ships of war, with the evidence of citizenship in their hands, and forced by violence there to serve, until conclusive testimonials of their birth can be obtained. These must most generally be sought for on this side of the Atlantic. In the meantime, acknowledged violence is practised on a free citizen of the United States, by compelling him to engage and to continue in foreign service. Although the Lords of the Admiralty uniformly direct their discharge on the production of this testimony, yet many must perish unrelieved, and all are detained a considerable time in lawless and injurious confinement.

It is the duty as well as the right of a friendly nation, to require that measures be taken by the British Government to prevent the continued repetition of such violence by its agents. This can only be done by punishing and frowning on those who perpetrate it. The mere release of the injured, after a long course of service and of suffering, is no compensation for the past, and no security for the future. It is impossible not to believe that the decisive interference of the Government in this respect, would prevent a practice, the continuance of which must inevitably produce discord between two nations which ought to be the friends of each other.

Those seamen who, born in a foreign country, have been adopted by this, were either the subjects of Great Britain or some other Power.

The right to impress those who were British subjects has been asserted, and the right to impress those of every other nation has not been disclaimed. Neither the one practice nor the other can be justified.

With the naturalization of foreigners, no other nation can interfere, further than the rights of that other are affected. The rights of Britain are certainly not affected by the naturalization of other than British subjects. Consequently, those persons who, according to our laws, are citizens, must be so considered by Britain, and by every other Power not having a conflicting claim to the person.

The United States therefore require, positively, that their seamen who are not British subjects, whether born in America or elsewhere, shall be exempt from impressment.

The case of British subjects, whether naturalized or not, is more questionable; but the right even to impress them is denied. The practice of the British Government itself may certainly, in a controversy with that Government, be relied on. The privileges it claims and exercises ought to be ceded to others. To deny this, would be to deny the equality of nations, and to make it a question of power, and not of right.

If the practice of the British Government may be quoted, that practice is to maintain and defend, in their sea service, all those of any nation who have voluntarily engaged in it, or who, according to their laws, have become British subjects.

Alien seamen, not British subjects, engaged in

our merchant service, ought to be equally exempt with citizens from impressment. We have a right to engage them, and have a right to and an interest in their persons, to the extent of the service contracted to be performed. Britain has no pretext of right to their persons or to their service. To tear them, then, from our possession, is at the same time an insult and an injury. It is an act of violence, for which there exists no palliative.

We know well that the difficulty of distinguishing between native Americans and British subjects has been used, with respect to natives, as an apology for the injuries complained of. It is not pretended that this apology can be extended to the case of foreigners, and even with respect to natives we doubt the existence of the difficulty alleged. We know well that among that class of people who are seamen, we can readily distinguish between a native American and a person raised to manhood in Great Britain or Ireland; and we do not perceive any reason why the capacity of making this distinction should not be possessed in the same degree by one nation as by the other.

If, therefore, no regulation can be formed which shall effectually secure all seamen on board American merchantmen, we have a right to expect from the justice of the British Government, from its regard for the friendship of the United States, and its own honor, that it will manifest the sincerity of its wishes to repress this offence, by punishing those who commit it.

We hope, however, that an agreement may be entered into satisfactory and beneficial to both parties. The article which appears to have been transmitted by my predecessor, while it satisfies this country, will probably restore to the naval service of Great Britain a greater number of seamen than will be lost by it. Should we even be mistaken in this calculation, yet the difference cannot be put in competition with the mischief which may result from the irritation justly excited, by this practice, throughout the United States. The extent and the justice of the resentments it produces, may be estimated, in Great Britain, by inquiring what impressions would be made on them by similar conduct on the part of this Government.

Should we impress from the merchant service of Britain, not only Americans, but foreigners, and even British subjects; how long would such a course of injury, unredressed, be permitted to pass unrevenged? How long would the Government be content with unsuccessful remonstrance and unavailing memorials? I believe, sir, that only the most prompt correction of, compensation for the abuse, would be admitted as satisfaction in such a cause.

If the principles of this Government forbid it to retaliate by impressments, there is yet another mode which might be resorted to. We might authorize our ships of war, though not to impress, yet to recruit sailors on board British merchantmen. Such are the inducements to enter into our naval service that we believe even this practice would very seriously affect the navigation of

Great Britain—Impressment.

Britain. How, sir, would it be received by the British nation?

Is it not more advisable to desist from, and to take effectual measures to prevent an acknowledged wrong, than by perseverance in that wrong to excite against themselves the well founded resentments of America, and force our Government into measures which may very possibly terminate in an open rupture?

Extract of a letter from Thomas Pinckney, Esq., to the Secretary of State.

LONDON, *January 3, 1793.*

I have only time to say by the present opportunity that their contents shall be duly attended to. I have strongly urged the adoption of equitable regulations concerning seamen, and, from a conference with Lord Grenville this day, I have greater hope of a favorable termination of this negotiation than I hitherto entertained. My expectations on this head are, however, only founded on what Lord Grenville declares to be his own ideas of the subject at present; but as this business particularly concerns another department, nothing conclusive can be relied on from a declaration thus expressly confined.

Extract of a letter from Thomas Pinckney, Esq., to the Secretary of State.

LONDON, *March 13, 1793.*

Our trade continues subject to great inconveniences, both from our seamen being impressed, from the idea of their being British subjects, and from their entering voluntarily on board of the King's ships, tempted by the present high bounties. I have had frequent conversations on this subject with Lord Grenville, who always expresses himself to be sensible of the inconvenience to which we are subjected, and desirous to apply a remedy; but still nothing decisive is done. Our Consuls are permitted to protect from impressment such of our seamen as are natives of America, but no others; and the difficulty of determining by agreement who besides natives are to be considered as citizens of the United States will, I fear, during the present generation at least, remain an obstacle to every other plan than that of letting the vessel protect a given number of men according to her tonnage. I insist upon the terms of our act of Congress as the rule of discrimination, and show that in point of time it accords with an act of their own relating to seamen. I send herewith a transcript of a representation I made on the subject of British officers detaining deserters from our vessels under pretence of their being Englishmen, and extorting the payment of their wages; on this last subject a question is now depending in the Court of Admiralty; the former remains without an answer from the Lords Commissioners of that department. Lord Grenville having said that he wished me to have some conversation with Mr. Bond, on account of his being particularly well acquainted with this subject, I told his Lordship I had no objection to conversing with any person appointed by him on this

subject. In a few days I received the enclosed note from Mr. Bond, to which I sent the answer annexed, in order to produce an explanation whereby neither more or less than the proper degree of importance might be attached to the conference. Mr. Bond came; he said he had no commission to treat on the subject; we, therefore, agreed that it was to be considered altogether as an informal conversation. We discoursed at length upon the subject, but I do not find that we are nearer coming to a conclusion on the business than we were before. He appeared not to be prepared for the extent of the reciprocity which I contended should form the basis and pervade the whole of the transaction; for when he urged the point of our seamen, or at least their captain in their behalf, being furnished with testimonials of their being Americans before they left our ports, I told him the inconveniences arising from this procedure would be equally felt by both nations; for that we should expect their seamen to be furnished with similar testimonials when they came to our ports to those they expected our mariners would bring to theirs. He asked in what instance it would become necessary, (alluding, I presume, to our not being in the habit of impressing.) I answered that unless we could come to some accommodation which might insure our seamen against this oppression, measures would be taken to cause the inconvenience to be equally felt on both sides. I have not since seen Mr. Bond, but find he is ordered out to America with the title of Consul General for the Middle and Southern States.

Extract of a note from Mr. Jay, Envoy Extraordinary and Minister Plenipotentiary of the United States at London, to Lord Grenville, Secretary of Foreign Affairs.

LONDON, *July 30, 1794.*

The undersigned finds it also to be his duty to represent, that the irregularities before-mentioned, extended not only to the capture and condemnation of American vessels and property, and to unusual personal severities, but even to the impressment of American citizens, to serve on board of armed vessels. He forbears to dwell on the injuries done to these unfortunate individuals, or on the emotions which they must naturally excite, either in the breasts of the nation to whom they belong, or of the just and humane of every country. His reliance on the justice and benevolence of His Majesty leads him to indulge the pleasing expectation, that orders will be given, that Americans, so circumstanced be immediately liberated, and that persons honored with His Majesty's commissions do in future abstain from similar violences.

It is with cordial satisfaction that the undersigned reflects on the impressions which such equitable and conciliatory measures would make on the minds of the people of the United States, and how naturally they would inspire and cherish those sentiments and dispositions which never fail to preserve as well as to produce respect, esteem, and friendship.

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Extract of a note from Mr. King, Minister Plenipotentiary of the United States at London, to Lord Grenville, dated

LONDON, GREAT CUMBERLAND PLACE,
November 30, 1796.

In your Lordship's letter of the 21st of September, in answer to my application for the discharge of Maxwell, an American citizen, impressed and detained on board His Majesty's ship *Sandwich*, the reason assigned against his discharge is "that he is married and settled at Bristol;" and I understand that the orders of the Lords Commissioners of the Admiralty for the discharge of American seamen usually contain a proviso, that the discharge is not to operate in favor of any person who has entered on board of any of His Majesty's ships, or who is married or settled within any of His Majesty's dominions. Without admitting or contesting, on this occasion, the rule of English law that a subject cannot divest himself of his natural allegiance, I take the liberty to request your Lordship's attention to the diversity of practice, so much to the disadvantage of the American citizens, that prevails in the application of this rule.

If Great Britain requires the acquiescence of foreign nations in this law, so far as regards the requisition of her subjects married and settled abroad, or voluntarily engaged in foreign service, is she not bound to observe it in like manner herself in respect to the subjects of foreign Powers, under similar circumstances, in her service or within her dominions? If to the demand of a foreigner in her service by the nation to which he belongs, Great Britain answers that such foreigner cannot be delivered, because he has voluntarily engaged to serve His Majesty, or is married or settled within His Majesty's dominions, is she not bound by her own principles to admit the validity of the same answer from such foreign nation, when she requires the surrender of British subjects found in a similar predicament in the service or within the territory of such foreign nation? Justice, which is always impartial, furnishes the proper answer to these questions.

Admitting, then, that the voluntary contract of an American citizen to serve on board a British ship, or the marriage or settlement of such citizen within His Majesty's dominions, is the foundation of a right in His Majesty's Government to refuse the requisition of the United States of America that such citizen should be discharged from His Majesty's service, do we not thereby establish a principle that at once condemns and puts an end to the practice of His Majesty's naval officers in entering American ships in search of, and for the purpose of impressing, British seamen; since all seamen found on board such ships are there of choice, and by voluntary contract to serve in the American employ?

But if neither of these circumstances can be considered as justly giving a right to His Majesty's Government to refuse the discharge of American citizens, does it not result that the usual proviso connected with the orders for the discharge of such citizens, (and which is assigned as a reason

against the discharge of John Maxwell,) is without any just foundation, and, consequently, operates to the disadvantage and injury of the American citizen?

Extract of a letter from Rufus King, Esq., to the Secretary of State, dated

LONDON, April 13, 1797.
Seamen.

It was before my arrival that Lord Grenville had expressed to Mr. Pinckney a dissatisfaction with the practice of granting protections to American seamen by our Consuls.

Before I received your opinion on this subject, Lord Grenville had written me a letter, in which this branch of the consular power is denied, and notice given to us that the practice must be discontinued. A copy of this letter, and of mine transmitting it to our several Consuls, I had the honor to send you with my letter of the 10th of December. Previous to the communication of this resolution of the British Government, it had been notified to Mr. Pinckney that all applications for the discharge of American seamen impressed into the British service must in future come through the American Minister, instead of coming from the American Consuls, as had been customary. One consequence of this regulation has been that the subject, in all its details, has come under my observation, and its importance, I confess, is much greater than I had supposed it. Instead of a few, and those, in many instances, equivocal cases, I have, since the month of July past, made application for the discharge from British men of war of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number, eighty-six have been ordered by the Admiralty to be discharged; thirty-seven more have been detained as British subjects, or as American volunteers, or for want of proof that they are Americans; and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer; the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made, in consequence of my applications.

It is certain that some of those who have applied to me are not American citizens; but the exceptions are, in my opinion, few; and the evidence, exclusive of certificates, has been such as, in most cases, to satisfy me that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay and bounty, though, in some instances, they have been in service more than two years. As the applications for my aid seemed to increase after the suspension of the consular power to grant protections, (owing to the exposed situation of our seamen in consequence of the denial of this power,) I judged it advisable, though I saw little prospect of any permanent agreement, to attempt to obtain the consent of this Government that, under certain regulations, our Consuls should again be au-

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thorized to grant certificates of citizenship to our seamen. My letter to Lord Grenville, and his answer, you have enclosed.

I likewise send you the copy of another letter, to which I have received no answer, that I wrote to Lord Grenville, in order to expose the inconsistency with the laws and principles of British allegiance of a rule by which acknowledged Americans are detained in the British service.

Extract of a letter from Rufus King, Esq., Minister Plenipotentiary of the United States, to the Secretary of State, dated

LONDON, *March 15, 1799.*

Impressing of Seamen.

I then mentioned our dissatisfaction with the continuation of the practice of taking out of our ships met on the main ocean such of their crews as did not possess certificates of American citizenship, denying, as I had often done in former conferences upon the same subject, any right on the part of Great Britain upon which the practice could be founded, and suggesting that our ships of war, by permission of our Government, might with equal right pursue the same practice towards their merchantmen:

That not only seamen who spoke the English language, and who were evidently English or American subjects, but also all Danish, Swedish, and other foreign seamen, who could not receive American protections, were indiscriminately taken from their voluntary service in our neutral employ, and forced into the war in the naval service of Great Britain:

That on this subject we had again and again offered to concur in a convention, which we thought practicable to be formed, and which should settle these questions in a manner that would be safe for England, and satisfactory to us:

That to decline such convention, and to persist in a practice which we were persuaded could not be vindicated, especially to the extent to which it was carried, seemed less equitable and moderate than we thought we had a right to expect.

Lord Grenville stated no precise principle upon which he supposed this practice could be justified; and the conversation upon this point, like many others upon the same subject, ended without a prospect of satisfaction. The French and Spaniards, and every other nation, might pursue the same conduct as rightfully as Great Britain does. With respect to foreign seamen in our employ, this Government has, if I recollect, yielded the point, though their officers continue the practice. We are assured that all Americans shall be discharged on application for that purpose, and that orders to this effect have been given to their naval commanders. But this is far short of satisfaction; indeed, to acquiesce in it is to give up the right.

Extract of a letter from Mr. King to Secretary of State.

LONDON, *February 25, 1801.*

The progress which has been made in our negotiation with this Government was such as

must have brought it to a speedy conclusion, had not a change taken place in the Department of Foreign Affairs. That the result would, in the main, have been satisfactory, is more than I am authorized to say, though I flattered myself with the hope that it would beso. Lord Hawkesbury assures me that he will give to the several subjects, which have been pretty freely discussed, an early and impartial consideration; and I am in hopes that Lord St. Vincent will likewise be inclined to attend to our reiterated remonstrances against the impressment of our seamen, and the vexations of our trade.

Extract of a letter from Rufus King, Esq., to the Secretary of State.

NEW YORK, *July —, 1803.*

SIR: I take the liberty to add a few miscellaneous articles, by way of supplement to my last despatch.

American Seamen.

As soon as the war appeared to me unavoidable, I thought it advisable to renew the attempt to form an arrangement with the British Government for the protection of our seamen; with this view I had several conferences, both with Lord Hawkesbury and Mr. Addington, who avowed a sincere disposition to do whatever might be in their power to prevent the dissatisfaction on this subject, that had so frequently manifested itself during the late war: with very candid professions, I however, found several objections, in discussing the project with the first Lord of the Admiralty. Lord Hawkesbury having promised to sign any agreement upon the subject that I should conclude with Lord St. Vincent, I endeavored to qualify and remove the objections he offered to our project, and finally, the day before I left London, Lord St. Vincent consented to the following regulations:

1. No seaman, nor seafaring person, shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships or men of war belonging to, or in the service of the other party; and strict orders shall be given for the due observance of this engagement.

2. Each party will prohibit all citizens or subjects from clandestinely concealing or carrying away from the territories or colonial possessions of the other, any seaman belonging to such other party.

3. These regulations shall be in force for five years, and no longer.

On parting with his Lordship, I engaged to draw up, in the form of a convention, and send him these articles in the course of the evening, who promised to forward them, with his approbation, to Lord Hawkesbury: I accordingly prepared and sent the draught to his Lordship, who sent me a letter in the course of the night, stating that on reflection he was of opinion, that the narrow seas should be expressly excepted, they

Aggressions of the Belligerents.

having been, as his Lordship remarked, immemorably considered to be within the dominion of Great Britain; that with this correction he had sent the proposed convention to Lord Hawkesbury, who, his Lordship presumed, would not sign it before he should have consulted the Judge of the High Court of Admiralty, Sir William Scott.

As I had supposed, from the tenor of my conferences with Lord St. Vincent, that the doctrine of the *mare clausum* would not be revived against us on this occasion, but that England would be content with the limited jurisdiction or dominion over the seas adjacent to her territories, which is assigned by the law of nations to other States; I was not a little disappointed on receiving this communication; and, after weighing well the nature of the principle and the disadvantages of its admission, I concluded to abandon the negotiation rather than to acquiesce in the doctrine it proposed to establish.

I regret not to have been able to put this business on a satisfactory footing, knowing, as I do, its very great importance to both parties; but I flatter myself that I have not misjudged the interest of our own country, in refusing to sanction a principle that might be productive of more extensive evils than those it was our aim to prevent.

AGGRESSIONS OF THE BELLIGERENTS.

[Communicated to the House July 6, 1812.]

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State of this date, complying with their resolution of the 30th of January last.

JAMES MADISON.

JULY 6, 1812.

DEPARTMENT OF STATE, July 6, 1812.

The Secretary of State, in pursuance of a resolution of the House of Representatives of the 30th of January last, has the honor to report to the President of the United States six several lists of captures, seizures, and condemnations, of the ships and merchandise of the citizens of the United States, under the authority of the Governments of Europe, to wit:

No. 1. British captures prior to the Orders in Council of November 11, 1807.

No. 2. British captures subsequent to the date of the Orders in Council of November 11, 1807.

No. 1. French captures, seizures, and condemnations, prior to the Berlin and Milan decrees.

No. 2. French captures, seizures, and condemnations, during the existence of the decrees of Berlin and Milan.

No. 3. French seizures, captures, and condemnations, since the revocation of the Milan and Berlin decrees.

No. 4. Captures, seizures, and condemnations, under the authority of the Government of Naples.

And, in addition, a statement of Danish captures, condemnations, &c.

The documents from which these lists have been compiled being of a miscellaneous nature, the detail is unavoidably imperfect. The sums stated as the amount of loss are in many cases doubtful. The chief fact from which the cause of capture can be inferred, is the date of capture, which, on referring to the regulations, orders, or decrees, existing at the time, may serve to elucidate that point of the inquiry. The successive orders, decrees, &c. of the belligerent Powers, as they have come to the knowledge of this Department, up to the year 1808, may be found in a report made to Congress by the Secretary of State on the 21st of December of that year. In that report, the belligerent edicts bearing upon neutral commerce, and corresponding with the years on the lists now sent, are as follows:

British.

1803. June 24. Direct trade between neutrals and the colonies of enemies not to be interrupted, unless, upon the outward voyage, contraband supplies shall have been furnished by the neutrals.

1804. April 12. Instructions concerning blockades, communicated by Mr. Merry. Conversion of the siege of Curraçoa into a blockade.

August 9. Blockade of Fécamp, &c.

1805. August 17. Direct trade with enemies' colonies subjected to restrictions.

1806. April 8. Blockade of the Ems, Weser, &c.

May 16. Blockade from the Elbe to Brest.

September 25. Discontinuance of the last blockade, in part.

1807. March 12. Interdiction of the trade from port to port of France.

June 26. Blockade of the Ems, &c.

October 16. Proclamation recalling seamen.

November 11. Three Orders in Council.

November 25. Six Orders in Council.

1808. January 8. Blockade of Carthage, &c.

March 28. Act of Parliament.

April 11. Orders encouraging our citizens to violate the embargo.

April 14. Act of Parliament to prohibit the exportation of cotton wool, &c. Act of Parliament making valid certain Orders in Council.

May 14. Blockade of Copenhagen and the island of Zealand.

June 23. Act of Parliament regulating trade between the United States and Great Britain.

October 14. Admiral Cochrane's blockade of the French Leeward Islands.

French.

During the years 1803, 1804, and 1805, no edicts were issued.

1806. Nov. 21. Berlin decree.

1807. Dec. 17. Milan decree.

1808. April 17. Bayonne decree.

To these may be added the British Orders in Council of the 26th of April, 1809, prohibiting altogether all trade with France and Holland, and the ports of Italy comprehended under the denomination of the kingdom of Italy; the blockade of the ports of Spain from Gijon to the French

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territory, of the 20th February, 1810, which was partially relaxed on the 14th of May, 1810; the blockade of Venice, instituted on the 27th of July, 1806, and which was declared to be still in force on the 26th of March 1810; the blockade of the canal of Corfu, of the 18th of August, 1810, which, in effect, was an attempt to blockade the whole Adriatic sea; together with certain other regulations, principally touching the trade on the Baltic.

To the French edicts may be added the decrees of Rambouillet of the 23d of March, 1810.

The seizures and condemnations under the authority of the Government of Naples were principally in consequence of a special decree of the Sovereign of that State.

In making up the lists, reference has been had to the dates of the Orders in Council of November, 1807, and the French edicts of Berlin and Milan, chiefly because their promulgation formed a new epoch in the history of commercial spoliations. Under this division, these lists will exhibit the following results:

<i>British.</i>		Vessels.
Captures, &c. prior to the Orders in Council of November, 1807	- - -	528
Captures, &c. subsequent to those orders	- - -	389
Total, - - - - -	- - -	917
<i>French.</i>		Vessels.
Captures, &c. prior to the Berlin and Milan decrees	- - -	206
Captures during the existence of those decrees	- - -	307
Captures since the revocation of those decrees	- - -	45
Total - - - - -	- - -	558

The number of captures by the Neapolitans amount to forty-seven. The statement relative to Danish captures will best explain itself.

With respect to the question proposed by the resolution in obedience to which this report is made, "How far the decrees, orders, or regulations, under which the captures have been made, are abandoned or persevered in by the nation making such captures," it may be remarked, that the Berlin and Milan decrees were revoked, as far as they affected the neutral commerce of the United States, according to an official declaration of the French Government, made at Paris on the 5th of August, 1810, to the American Minister then resident there; and that this revocation, in the same latitude, has been since corroborated by acts and declarations of the French Government communicated to the Minister of the United States who now resides at Paris. The decrees of Bayonne and of Rambouillet, as well as that of the Sovereign of Naples, being special, ceased with the accomplishment of the particular object of their promulgation.

On the part of Great Britain, it is officially

known to the Secretary of State, that up to the period of declaring war against that Power by Congress, the Orders in Council were rigidly enforced against American neutral trade; captures and condemnations were incessantly occurring; and with respect to any edict of a date anterior to those Orders in Council, it is impossible distinctly to specify whether it has been abandoned or not; for, so late as March 26, 1810, the British Secretary of State for Foreign Affairs officially refused to allow the American Minister in London to infer that the blockade of May, 1806, had become extinct by the operation of the Orders in Council. On the contrary, he expressly stated that that blockade was comprehended under the more extensive restrictions of a subsequent order. Hence it may be inferred, that the Orders in Council of November, 1807, and of April, 1809, which was a more general extension of unlawful principles previously acted upon in a limited degree, although they comprehended, yet did not extinguish, particular blockades or orders antecedently proclaimed; thus leaving it uncertain whether, in the event of the revocation of the Orders in Council themselves, any or what obnoxious edicts would or would not be insisted on or relinquished.

In relation to Spain, the Department of State is not in possession of information sufficient to authorize a report of captures, &c., during the present war by that Power.

All which is respectfully submitted.

JAMES MONROE.

STATE OF THE FINANCES.

[Communicated to the Senate, November 25, 1811.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following reports and estimates:

RECEIPTS AND EXPENDITURES.

I. *To the end of the year 1811.*—The actual receipts into the Treasury, during the year ending on the 30th of September, 1811, have consisted of the following sums, viz:

Customs, sales of lands, arrears, repayments, and all other branches of revenue, amounting, together, as appears per statement E, to - \$13,541,446 37
Temporary loan of December 31, 1810 2,750,000 00

Total amount of receipts - - - \$16,291,446 37

Making, together with the balance in the Treasury on the 1st of October, 1810, and amounting to - - - 3,459,029 72

Making an aggregate of - - - \$19,750,476 09

The disbursements during the same year, have been as follows, viz:

Civil department, including miscellaneous expenses, and those incident to the intercourse with foreign nations - - - - \$1,360,858 98

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Army fortifications, arms, and arsenals - -	\$2,129,000	
Navy Department - -	2,136,000	
Indian Department - -	142,725	
	<u>4,407,725 00</u>	
Payments for interest on the public debt	2,225,800 93	
Total current expenses - - -	\$7,994,384 91	
Reimbursement of the temporary loan (in March and September, 1811) -	2,750,000 00	
Payments on account of the principal of the public debt - - -	<u>5,058,272 82</u>	
Amounting, together, as will appear more in detail by statement E, to -	\$15,802,657 73	
And leaving in the Treasury, on the 30th September, 1811, a balance of	3,947,818 36	
	<u>\$19,750,476 09</u>	

The actual receipts arising from revenue alone, and exclusively of the temporary loan since reimbursed, appear, from this statement, to have exceeded the current expenses, including therein the interest paid on the debt, by a sum of more than five millions and a half of dollars. But the payments on account of interest, during the year ending on the 30th of September, 1811, have, from an unavoidable delay in making the usual remittances to Holland, fallen short of the amount due during the same period; and the real excess of receipts arising from revenue, beyond the current expenses, including therein the interest accrued on the debt, amounts only to near \$5,100,000.

The receipts for the last quarter of the year 1811, are estimated at \$3,300,000; and the expenditures (including the payments of arrears of interest and near \$2,160,000, on account of the principal of the public debt) at \$4,300,000, which will leave, at the end of the year, a balance in the Treasury, of near three millions of dollars. It will not, therefore, be necessary to resort, for the service of the present year, to the loan authorized by the act of the last session of Congress.

II. Year 1812.—It is ascertained that the net revenue arising from duties on merchandise and tonnage, which has accrued during the first three quarters of the year 1811, exceeds six millions of dollars; and it may, for the whole year, be estimated at about \$7,500,000.

The custom-house bonds outstanding on the 1st day of January, 1812, and falling due in that year, are also estimated, after deducting bad debts, at \$7,500,000. This sum may therefore be assumed as the probable amount of receipts into the Treasury during the year 1812, on account of duties on merchandise and tonnage; the portion of the revenue arising from importations subsequent to the present year, which will be received in 1812, being considered sufficient to pay the debentures and expenses of collection of that year.

The payments made by purchasers of public lands, north of the river Ohio, having, during the two last years, after deducting the expenses and charges on that fund, amounted to near \$600,000 a year, that branch of the revenue may, for the present, be estimated at that sum. Allowing one

hundred thousand dollars for the other small items of revenue, which will consist principally of arrears and repayments, the whole amount of actual receipts into the Treasury, during the year 1812, may therefore be estimated at \$8,200,000.

The current expenses for the same year, are estimated as follows, viz:

1. Expense of a civil nature, both domestic and foreign - - -	\$1,260,000	
2. Military and Naval Establishments, according to the estimates of those two Departments, and including the additional permanent appropriations for the purchase of arms and for Indian annuities, viz:		
Army, (including \$32,000 for the militia) - - -	\$2,581,000	
For arsenals, arms, and ordnance - - -	614,000	
Naval Department - - -	2,500,000	
Indian Department - - -	<u>220,000</u>	
	5,915,000	
3. Interest on the public debt - - -	<u>2,225,000</u>	
Amounting, together, to - - -	<u>\$9,400,000</u>	

And exceeding, by \$1,200,000, the probable amount of receipts.

This deficit may be paid out of the sum of three millions of dollars in the Treasury. But, under existing circumstances, it does not seem eligible to exhaust that fund; and the estimate of receipts being also liable to more than usual uncertainty, the propriety of authorizing a loan sufficient to supply that difference, and to defray such other extraordinary expenses as may be incurred during the year, is respectfully submitted.

It must, at the same time, be observed, that the sum of \$9,400,000, thus stated as the amount of current expenses for the year 1812, includes, in fact, a portion of extraordinary expenses arising from the present state of affairs; for, if the military and naval expenditure had been estimated at a sum not exceeding the amount actually expended for those objects during the year ending on the 30th September, 1811, that is to say, at \$4,400,000 instead of \$5,900,000, the estimate of receipts would exceed that of current expenses.

The disbursements on account of the Naval Establishment have amounted, in the year ending on the 30th September, 1810, to - - -	\$1,675,000
And in the year ending on the 30th September, 1811, to - - -	2,136,000
They are estimated, for the year 1812, at - - -	<u>2,500,000</u>

The disbursements on account of the Military Establishment have amounted, in the year ending on the 30th September, 1810, to - - -	\$2,309,000
And in the year ending on the 30th September, 1811, to - - -	2,129,000
They are estimated, for the year 1812, at - - -	<u>3,195,000</u>

But the detailed annual estimates of the year 1812 will show that they are predicated on the employment of almost the whole naval force, and of the whole Military Establishment of the United States, as authorized by law; covering, be-

State of the Public Finances.

sides several other items, all the expenses of more than seventeen thousand effective men in the land and sea service.

With respect to the payments on account of the principal of the debt, it is evident that an authority to borrow a sum equal to that which will be reimbursed during the year 1812, will be necessary. The payments, which, according to law, must be made during that year, on that account, consist of

1. Annual reimbursement of six per cent. and deferred stocks	- - - - - \$1,570,000 00
2. Reimbursement of the residue of the converted stock	- - - - - 565,318 41
Amounting, together, to	- - - - - <u>\$2,135,318 41</u>

This sum, and that payable for interest, amounting together to \$4,360,000, leave, in order to complete the annual appropriation of eight millions, a balance of \$3,640,000, which can be applied in no other manner than in purchases of stock at the prices limited by law. The amount which may be thus applied is therefore uncertain.

PUBLIC DEBT.

It appears, by the statement D, that the payments on account of the principal of the public debt will, from the 1st of October, 1810, to the 31st of December, 1811, have exceeded six millions four hundred thousand dollars. With the exception of the annual reimbursement of the six per cent. and deferred stocks, there will remain, at the end of the year 1811, no other portion of the public debt reimbursable at the will of the United States, than the residue of converted stock, amounting, as above stated, to \$565,000, and which will be paid in the year 1812. There being nothing afterwards left, on which the laws passed subsequent to the year 1801, for the redemption of the debt, can operate, a general view of the result and effect of those laws will now be presented.

Exclusively of near three millions of unfunded debt since reimbursed, as detailed in the report of the 18th of April, 1808, the public debt of the United States amounted, on the 1st of April, 1801, to

\$79,926,999

As will appear by the statement Dd. The whole amount of principal extinguished during the period of ten years and nine months, commencing on the 1st day of April, 1801, and ending on the 31st of December, 1811, exceeds forty-six millions of dollars, viz:

Foreign debt, paid in full	\$10,075,004
Eight per cent., five and a half per cent., four and a half per cent., and Navy six per cent. stocks, and temporary loans due on the 1st day of April, 1801, to the Bank of the United States, all paid in full	- - - - - 12,657,700
Six per cent. and deferred stocks, including the exchanged stock reimbursed	20,820,744

12th Con. 1st Sess.—65

Three per cent. stock, including converted stock reimbursed	- - - - - 2,379,269
Registered debt, and debt due to foreign officers	- - - - - 90,093
	<u>46,022,810</u>

Leaving the amount of old debt unredeemed on the 1st of January, 1812, - 33,904,189

And consisting of the following species:

Six per cent. and deferred stocks, unredeemed amount,	- \$17,067,096
Three per cent. stock	- 16,157,890
Converted stock	- 565,318
1796 six per cent. stock,	- 80,000
Registered debt, and debt due to foreign officers	- 33,885
	<u>\$33,904,189</u>

And to which, adding the Louisiana six per cent. stock, being a new debt, contracted subsequent to the first of April, 1801 - - - - - 11,250,000

Makes the whole amount of public debt on the 1st of January, 1812 - \$45,154,189

The annual interest on the public debt, due on the 1st April, 1801, amounts to \$4,180,463
The annual interest on the public debt, extinguished between the 1st April, 1801, and the 1st January, 1812, amounted to 2,632,982

Leaving, for the amount of annual interest on the old debt unredeemed, on the 1st January, 1812 - - - - - \$1,547,481
The annual interest on the Louisiana stock amounts to - - - - - 675,000

Making the annual interest on the whole debt, due on the 1st January, 1812 - \$2,222,481
Which, subtracted from the annual interest on the debt due on 1st April, 1801 - 4,180,463

Leaves, for difference between the amounts of interest respectively payable at those two dates - - - - - \$1,957,982

The disposable national revenue, or that portion which alone is applicable to defray the annual national expenses, consists only of the surplus of the gross amount of revenue collected, beyond the amount necessary for paying the interest on the public debt. A diminution of that interest is, with respect to the ability of defraying the other annual expenses, a positive increase of revenue to the same amount. With an equal amount of gross revenue, the revenue applicable to defray the national expenses is now, by the effect of the reduction of the debt, two millions six hundred thousand dollars greater than on the 1st day of April, 1801. Or, if another view of the subject be thought more correct, the laws for the reduction of the debt have, in ten years and nine months, enabled the United States to pay, in full, the purchase money of Louisiana, and increased their revenue near two millions of dollars.

State of the Public Finances.

If the amount of annual payments, on account of both the principal and interest of the public debt, during the last eight years, be contrasted with the payments hereafter necessary for the same purpose, the difference will be still more striking. Eight millions of dollars have been annually paid, on that account, during those eight years. The whole amount payable after the year 1812, including the annual reimbursement on the six per cent. and deferred stocks, is \$3,792,382; making an annual difference of more than four millions two hundred thousand dollars, which will be liberated from that appropriation. And this annual payment of about three millions eight hundred thousand dollars, would have been sufficient, with some small variations, to discharge, in ten years, the whole of the residue of the existing debt, with the exception of the three per cent. stock, the annual interest on which amounts only to four hundred and eighty-five thousand dollars. The aspect of the foreign relations of the United States forbids, however, the hope of seeing the work completed within that short period. The redemption of principal has been effected without the aid of any internal taxes, either direct or indirect; without any addition, during the last seven years, to the rate of duties on importations, which, on the contrary, have been impaired by the repeal of that on salt, and notwithstanding the great diminution of commerce during the last four years. It therefore proves, decisively, the ability of the United States, with their ordinary revenue, to discharge, in ten years of peace, a debt of forty-two millions of dollars; a fact which considerably lessens the weight of the most formidable objection, to which that revenue, depending almost solely on commerce, appears to be liable. In time of peace, it is almost sufficient to defray the expenses of a war; in time of war, it is hardly competent to support the expenses of a peace establishment. Sinking, at once, under adverse circumstances, from fifteen to six or eight millions of dollars, it is only by a persevering application of the surplus, which it affords in years of prosperity, to the discharge of the debt, that a total change in the system of taxation, or a perpetual accumulation of debt can be avoided. But, if a similar application of such surplus be hereafter strictly adhered to, forty millions of debt, contracted during five or six years of war, may always, without any extraordinary exertions, be reimbursed in ten years of peace.

This view of the subject has, at the present crisis, appeared necessary, for the purpose of distinctly pointing out one of the principal resources, within the reach of the United States. But, to be placed on a solid foundation, it requires the aid of a revenue, "sufficient, at least, to defray the ordinary expenses of Government, and to pay the interest on the public debt, including that on new loans which may be authorized."

PROVISION FOR THE ENSUING YEARS.

The revenue is derived from two sources—the duties on importations, and the sales of public lands.

The net revenue, arising from duties on merchandise and tonnage, which accrued during the year 1809, amounted to \$6,527,168. The net revenue, arising from the same sources, which accrued during the year 1810, amounted, as will appear by the statements A and B, to \$12,513,490; the same revenue, for the year 1811, is estimated, as has already been stated, at \$7,500,000. A portion of the revenue of this year having been collected on British merchandise, imported before the prohibition took effect, the permanent revenue, arising from duties on tonnage and merchandise, will not probably, at their present rate, and under existing circumstances, exceed \$6,000,000—an estimate which is corroborated by the view of the subject exhibited in the statement B 2.

The sales of the public lands, north of the river Ohio, have, during the year ending on the 30th September, 1811, amounted, as appears by the statement C, to 207,000 acres, and the payments by purchasers, to \$600,000. It has already been stated, that those payments, on the average of the two last years, amount, after deducting the expenses and charges on that fund, to the annual sum of \$600,000.

The sales in the Mississippi Territory being, in the first instance, appropriated to the payment of \$1,250,000 to the State of Georgia, are distinctly stated.

The permanent revenue or annual receipts, after the year 1812, calculated on the existing state of affairs may, therefore, be estimated at - - - \$6,600,000
Which, deducting from the annual expenditures, calculated on the same principle, and amounting, by the preceding estimates for the year 1812, to - - - 9,200,000

Leaves a deficiency to be provided for, of \$2,600,000

An addition of fifty per cent. to the present amount of duties, (together with a continuance of the temporary duties heretofore designated by the name of "Mediterranean Fund,") will be sufficient to supply that deficiency, and is respectfully submitted. This mode appears preferable for the present to any internal tax. With respect to the sales of public lands, besides affording a supplementary fund for the ultimate redemption of the public debt, they may, without any diminution of revenue, be usefully applied as a bounty to soldiers enlisting in the regular service, and in facilitating the terms of loans. But it does not appear that the actual receipts into the Treasury, arising from the sales, can be materially increased, without a reduction in the price, unless it be by an attempt to offer certain portions for sale in the large cities of the Union.

The same amount of revenue would be necessary, and, with the aid of loans, would, it is believed, be sufficient in case of war. The same increase of duties would, therefore, be equally necessary in that event. Whether it would be sufficient to produce the same amount of revenue, as under existing circumstances, cannot at present be determined. Should any deficiency arise, it may be supplied, without difficulty, by a fur-

Encouragement to the Culture of Hemp.

ther increase of duties, by a restoration of that on salt, and a proper selection of moderate internal taxes. To raise a fixed revenue of only nine millions of dollars, is so much within the compass of the national resources, so much less in proportion than is paid by any other nation, that, under any circumstances, it will only require the will of the Legislature to effect the object.

The possibility of raising money by loans to the amount which may be wanted, remains to be examined: for, the fact that the United States may easily, in ten years of peace, extinguish a debt of forty-two millions of dollars, does not necessarily imply that they could borrow that sum during a period of war.

In the present state of the world, foreign loans may be considered as nearly unattainable. In that respect, as in all others, the United States must solely rely on their own resources. These have their natural bounds, but are believed to be fully adequate to the support of all the national force that can be usefully and efficiently employed.

The ability and will of the United States faithfully to perform their engagements are universally known; and the terms of loans will, in no shape whatever, be affected by want of confidence in either. They must, however, depend not only on the state of public credit, and on the ability to lend, but also, on the existing demand for capital required for other objects. Whatever this may be, the money wanted by the public must be purchased at its market price. Whenever the amount wanted for the service of the year, or the whole amount of stock in the market shall exceed certain limits, it may be expected that legal interest will not be sufficient to obtain the sums required. In that case, the most simple and direct is also the cheapest and safest mode. It appears much more eligible to pay at once the difference, either by a premium in lands, or by allowing a higher rate of interest, than to increase the amount of stock created, or to attempt any operation which might injuriously affect the circulating medium of the country. This difficulty, and it is the only serious one which has been anticipated, will not, indeed, if analyzed, appear very formidable. For, to take an extreme case, and supposing even forty millions of dollars to be borrowed, at eight, instead of six per cent. a year, the only difference would consist in the additional payment of eight hundred thousand dollars a year, until the principal was reimbursed, a payment inconvenient, indeed, and to be avoided if practicable; but inconsiderable, if compared either with the effects of other means of raising money, or with some other branches of the public expenditure.

It appears from the preceding estimates, that nothing more may be strictly wanted for the defraying, during the year 1812, the expenses as yet authorized by law, than an authority to borrow a sum equal to that which may be reimbursed on account of the principal of the public debt.

With a view to the ensuing years, and con-

sidering the aspect of public affairs, presented by the Executive; and the measures of expense which he has recommended, it has been attempted to show—

1st. That a fixed revenue of about nine millions of dollars is necessary, and sufficient, both under the existing situation of the United States, and in the event of their assuming a different attitude.

2d. That an addition to the rate of duties on importations is at present sufficient for that purpose, although, in the course of events, it may require some aid from other sources of revenue.

3d. That a just reliance may be placed on obtaining loans, to a considerable amount, for defraying the extraordinary expenses which may be incurred beyond the amount of revenue above stated.

4th. That the peace revenue of the United States will be sufficient, without any extraordinary exertions, to discharge, in a few years, the debt which may be thus necessarily incurred.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, Nov. 22, 1811.

CULTURE OF HEMP.

[Communicated to the House, December 7, 1811.]

To the honorable the Senate and House of Representatives of the United States, the petition of the inhabitants of the county of Sussex, in the State of New Jersey, humbly sheweth:

That your petitioners are owners of considerable tracts of land, situated in the county of Sussex, that are suitable for the cultivation of hemp; which they have been at a heavy expense in draining, with the view of turning them to that use. They have been led to this object by the high prices which that article has hitherto borne in our markets; and, more particularly, by the encouragement held out by Congress to every improvement and extension of the agriculture and manufactures of this country—objects always dear to them, but more so in the present convulsed state of the world; which has drawn from its accustomed employment the capital of the country, and with it the enterprise and industry of our citizens, which now turns its activity to the improvement of the interior of our country. Your petitioners have seen, with regret and disappointment, that the state of affairs abroad, which has curtailed or annihilated almost every other branch of commerce, has greatly increased the importation of hemp; much to their individual prejudice, and (as they beg permission to show) to the material prejudice of the country generally. In the counties of Sussex and Morris, there are not less than thirty thousand acres of land, adapted to the growing of hemp; and, in the county of Orange, which adjoins, a much greater quantity. These lands have heretofore been but little cultivated, and were of small value to the owners; in very many instances wholly unproductive. And

American Manufactures—Public Deposites in Banks.

as they were in most instances inundated during part of the year, and filled with stagnant waters, the health of large districts of country has been greatly injured. To redeem these lands, therefore, and to render them susceptible of growing, in abundance, an article of such national importance as that of hemp, is a great and lasting gain to the country, in every point of view, and, perhaps, very essential to its independence. The importation of hemp, on the contrary, is a continual source of national loss. This article (as your honorable body well knows) is brought from countries that want few of the products of this country; and who are, besides, our rivals in many of the leading articles which we have for exportation. The balance of trade with them is consequently largely against us; and, to extinguish this balance, the specie is drained from our country.

Your petitioners are fully of opinion that, with suitable legislative encouragement, there will be raised not only enough hemp for the consumption of the United States, but that it will become, in a short period of time, an important article of exportation. This encouragement is the more necessary at this time, to counteract the injury that is likely to be produced by a continuance of the state of things before alluded to; and to afford a more immediate and certain prospect of gain to the cultivator, inducing, by this means, others to embark their capitals in like enterprises; who would else be discouraged by the heavy expense that is unavoidably incurred in the outset, and which affords no return till after several years of persevering industry.

Such are the motives which have led your petitioners to apply to the General Government for assistance. They will not presume to point out the mode, whether by a bounty on domestic hemp, or an additional duty on foreign; this they leave to the wisdom of Congress. That everything will be done that is consistent with the duties they owe to all classes, they have a sufficient pledge in the deep interest which the Government has always taken in raising the value of our native soil, and in lessening our dependence on foreign countries.

JAMES LUDLUM, *and others.*

PROTECTION TO MANUFACTURES.

[Communicated to the House, December 23, 1811.]

To the honorable the Senate and the House of Representatives of the United States in Congress assembled, the petition of the subscribers, citizens of the State of New Jersey, respectfully represents:

That your petitioners are concerned in the manufactory of iron, for which the district of country wherein they reside is peculiarly adapted. Our hills and mountains abound with iron ore, of the very best quality, adequate to supply the whole of the United States, and they also furnish streams of water, and fuel, sufficient to convert this ore into bar iron, castings, nails, &c.

Whilst our commerce was undisturbed by the

reebooters of Europe, our iron manufactories afforded us a living profit. Of late, the large importations from Russia and Sweden, and consequent reduction of price; the diminution of commerce, and great difficulty of making sale of our iron for cash, have so effectually embarrassed our operations, that really we know not what course to pursue.

If we suffer works to lay idle, after expending, perhaps, the whole of our capital in erecting them, we are most certainly ruined; and if we persist in conducting them, under such heavy embarrassments, we are almost as certainly ruined. In this dilemma, then, we appeal to the National Legislature, to relieve us from a situation which we could neither foresee nor prevent. We look to them with confidence, to cherish and foster, with parental care, establishments which, we are bold to say, may render us independent of Europe, in an article so highly important to the agricultural, commercial, and manufacturing interests of our country.

We solicit from your honorable body no other assistance than such as has been frequently extended to establishments of less importance than ours. If an entire prohibition to import iron from Europe should be judged inexpedient, we trust that the wisdom and patriotism of Congress will not hesitate in protecting us from ruin, by imposing such an additional duty on this article, when imported, as will enable us to proceed in exploring and bringing forth the hidden treasures of our mountains.

And your petitioners, as in duty bound, will ever pray.

JOSIAH MUNSON, *and others.*
NEW JERSEY, November, 1811.

PUBLIC DEPOSITES IN BANKS.

[Communicated to the House, January 13, 1812.]

TREASURY DEPARTMENT, Jan. 8, 1812.

SIR: I have the honor, in obedience to the resolution of the House of Representatives, of the 23d ultimo, to transmit a statement of the several banks in which the public moneys are now deposited, showing the greatest amount that has been deposited in each bank at any one period since the 4th day of March, 1811, and also the amount deposited in each bank on the 30th September, 1811.

The annexed correspondence, No 1 to 17, relates to the other subjects of inquiry embraced by the resolution of the House.

As soon as it had been ascertained that the charter of the Bank of the United States would not be renewed, a letter was addressed (No. 1) to the collectors of Boston, New York, Philadelphia, Baltimore, Norfolk, Charleston, and New Orleans, directing them to cease to deposit custom-house bonds for collection in the Bank of the United States, (or its branches) to withdraw those falling due after the 3d day of March, 1811, and to deposit thereafter, the bonds, in one or more State

Public Deposites in State Banks.

banks, which were, according to the information already received, either pointed out or left at the option of the collector. The only condition required, in the first instance, from the bank or banks thus selected, was, that they should, in their discounts, give the preference to paper offered by persons having custom-house bonds to pay. This, considering the pressure expected from the dissolution of the Bank of the United States, appeared of primary importance towards facilitating and securing the collection of the revenue. There being no State bank at Savannah, the collector of that port was only directed to cease depositing the revenue bonds in the Branch Bank of the United States.

The banks selected in conformity with that instruction, were—

At Boston, the Union and Massachusetts Banks;

At New York, the Manhattan Company and Mechanics' Bank;

At Philadelphia, the Bank of Pennsylvania and Farmers and Mechanics' Bank;

At Baltimore, the Bank of Baltimore and the Commercial and Farmers' Bank;

At Norfolk, the branch of the Bank of Virginia;

At Charleston, the State Bank;

At New Orleans, the Bank of Louisiana.

Partial deposits had previously been made in the Bank of Pennsylvania, and with the Manhattan Company, as was in a former report stated to Congress. At Norfolk and New Orleans, there was no choice, as only one bank was established in each of these two cities. The revenue bonds are divided equally, at Philadelphia, between the two banks employed there. The collectors of New York and Baltimore have been directed to deposit about two-thirds of the bonds with the Manhattan Company and the Bank of Baltimore, respectively, and the other third in the other bank employed in each place. The collector of Boston deposits indiscriminately in the Union and Massachusetts Banks, but generally to a larger amount in the first.

All those banks, with the exception of that of Norfolk, explicitly assented to the condition required, and transmitted answers similar in substance to that given by the Bank of Pennsylvania, (No. 2.) The answer of the bank at Norfolk (No. 3) was also in the affirmative, but more cautiously expressed. There being but one bank in Virginia, which must necessarily be employed, and the public deposits, compared with its capital, being inconsiderable, it was thought ineligible to ask any other conditions, and the letter (No. 6) was accordingly written.

To all the other banks, above mentioned, the letter (No. 4) was written, informing them that a monthly statement of their situation, which would be considered as confidential, and the same accommodation, in the transmission of public moneys, as had heretofore been received from the Bank of the United States, would be expected from them. From all of them, the State Bank of South Carolina excepted, an answer in the affirmative was received, similar in substance to that given by the Bank of Pennsylvania, (No. 5.) The

answer of the State Bank was modified, by reason of some particular provisions in its charter. That answer, and the reply to it, are marked No. 7 and 8. If the alterations in the charter, therein alluded to, are not obtained, it may hereafter become necessary to place the public moneys collected at Charleston, in another bank.

Previous to the establishment of the Branch Bank of the United States at Washington, the Bank of Columbia had been employed in paying the dividends on the public debt and transacting all the Treasury business at the seat of Government. It had afterwards continued to receive partial deposits, arising from the sources stated in a former report; and since the dissolution of the Bank of the United States, the Treasury payments have been made through that bank and that of Washington, in the manner explained in the letters No. 9 to 13.

The dividends on the public debt, formerly paid at the Bank of the United States and its branches, are now paid, at Boston, by the Union Bank; at New York, by the Manhattan Company; at Philadelphia, by the Bank of Pennsylvania; at Washington, by the Bank of Columbia; and at Charleston, by the State Bank.

The other banks in which public moneys had previously been, and continue to be, deposited, are those of Maine and Saco, in the District of Maine; Roger Williams and Newport, in the State of Rhode Island; Alexandria, in the District of Columbia; Marietta, in the State of Ohio; Kentucky, in that State; and the office of the Bank of Pennsylvania, at Pittsburg. In the three last, deposits are made by the receivers of public moneys arising from the sales of lands; in the others, by the collectors of customs of the places where they are established. The letters, No. 14 to 17, will show the manner in which the surplus revenue collected in Maine, Rhode Island, Connecticut, North Carolina, Savannah, and some other ports, is drawn in the Union Bank, the Manhattan Company, the Virginia branch, of Norfolk, and the State Bank of South Carolina. The sums deposited at Pittsburg, are, when wanted, paid at Philadelphia, by the Bank of Pennsylvania. The banks of Marietta and Kentucky had, heretofore, agreed to pay, in one of the Atlantic banks, the moneys deposited with them, and for which the Treasury could not draw upon them within four months after the date of such deposits. They have found it, lately, difficult to effect those payments within that time, and by a late agreement with the Bank of Kentucky, the time has been extended to six months.

No difficulty has been experienced in the transmission of public moneys, and, with the exception of Norfolk and Savannah, the revenue has generally been as well collected as heretofore.

With respect to the late Bank of the United States, the loan was repaid at the times and in the manner which appeared best calculated to produce the least inconvenience to the public, and to the banks now employed by Government. The deposits were gradually withdrawn, and the account with that institution and its branches

Public Deposites in State Banks.

finally closed, on the 2d of September last, with the exception of a balance of about \$70,000 in the New Orleans branch, for the whole of which a credit has, several months ago, been given to the agents of the War and Navy Departments, but which has not yet been made use of by them.

It had been suggested, in a report of January 23, 1811, that some doubt might exist respecting the obligation of the United States to receive the notes of the late Bank of the United States in payment of duties, after its dissolution. No legislative provision having been made on that subject, the collectors and receivers of public moneys were nevertheless directed not to receive any which the bank refused to receive from Government, or for which such collectors could not con-

veniently receive payment. The circuit court of Virginia has, however, lately decided, that, under the existing law, all the notes of that bank, and wherever payable, were still, everywhere, a legal tender in payment of duties. The necessity of an immediate repeal of that part of the law which is still considered as being in force, is respectfully submitted—as a very considerable amount of outstanding notes of New Orleans, Savannah, and Charleston, will otherwise be forced on the Treasury, and cannot be realized without great risk, and the expense of transporting specie.

I have the honor to be, &c.

ALBERT GALLATIN.

The Hon. the SPEAKER
of the House of Representatives.

Statement of the several banks in which the public money is deposited, showing the greatest amount in each bank at any one period since the 4th March, 1811; and, also, the amount deposited in each bank on the 30th September, 1811.

Names of Banks.	Places where situated.	Greatest amount at any one period since the 4th March, 1811.		Amount on Septem. 30, 1811.
		Amount.	Period.	
Maine - - - - -	Portland - -	\$58,249 00	September 30, 1811	\$58,249 00
Saco - - - - -	Saco - - -	49,806 69	December 16, "	35,218 22
Union - - - - -	Boston - -	685,572 18	December 16, "	491,374 31
Massachusetts - - - - -	Ditto - -	358,420 77	November 18, "	311,508 37
Roger Williams - - - - -	Providence -	85,791 12	December 9, "	67,291 12
Newport - - - - -	Newport - -	40,202 95	March 4, "	19,901 65
Manhattan - - - - -	New York -	1,106,466 86	November 25, "	685,094 62
Mechanics' - - - - -	Ditto - -	675,474 34	December 23, "	490,516 15
Farmers and Mechanics - - - - -	Philadelphia	572,744 00	November 25, "	400,750 65
Pennsylvania - - - - -	Ditto - -	646,673 37	December 23, "	372,715 70
Branch Bank of Pennsylvania - - - - -	Pittsburg -	154,474 17	December 16, "	69,562 82
Baltimore - - - - -	Baltimore -	382,377 85	December 16, "	267,616 91
Commercial and Farmers' - - - - -	Ditto - -	132,636 50	October 7, "	117,636 50
Washington - - - - -	Washington	126,009 94	December 23, "	57,285 87
Columbia - - - - -	Ditto - -	220,653 05	December 23, "	73,868 28
Alexandria - - - - -	Alexandria -	66,319 89	September 30, "	66,319 89
Branch of Bank of Virginia - - - - -	Norfolk - -	67,788 87	December 23, "	17,546 28
State - - - - -	Charleston -	486,217 79	December 16, "	344,285 00
Marietta - - - - -	Marietta - -	19,601 62	March 4, "	9,047 25
Kentucky - - - - -	Frankfort -	131,011 73	September 30, "	131,011 73
Louisiana - - - - -	New Orleans	124,000 00	September 30, "	124,000 00
Branch of Bank of the United States - - - - -	Ditto - -	196,701 55	March 4, "	* 68,860 03

* A credit in favor of the agents of the War and Navy Departments for the whole of this sum has been given for several months, but has not yet been made use of by them.

TREASURY DEPARTMENT, December 30, 1811.

No. 1.

TREASURY DEPARTMENT,
February 25, 1811.

SIR: It being now settled that the charter of the Bank of the United States will not be renewed, and it being necessary to discontinue the agency of that bank in transacting the Treasury business, after its corporate character shall have ceased, I have to request your immediate attention to the following preliminary arrangements:

1. From the receipt of this letter, you will cease to deposit custom-house bonds for collection in the Bank of the United States, and you will withdraw all such bonds falling due after the third day of March next, as have been already deposited therein for collection.
2. You will deposit, for collection, all bonds becoming due after the third day of March next, in such of the State banks at Philadelphia as shall appear to you best adapted for effecting such

Public Deposits in State Banks.

collection punctually, effectually, and securely. The only condition to be previously required of such bank is the following: that, in making their discounts, other things being equal, they shall consider it as a rule, that paper offered by persons having custom-house bonds to pay, and intended to be applied to such payments, shall have the preference over all other paper offered for discount. This is not intended to take from the directors the privilege of judging as to the sufficiency of the drawers or endorsers of paper thus offered for discount, but only that, when such sufficiency is not doubted, the first facilities of the bank shall be given to those who have payments to make to the Treasury. If the state of commercial credit, and the pressure on the banks be such that, in your opinion, a division of those deposits between two banks will have a tendency more effectually to assist and support those interests, so important to the Treasury, you are at liberty to make such division.

It is to be distinctly communicated to such bank or banks as you may select, that the arrangement now made is temporary, and that it is not, in anywise, to be taken as a pledge that the public deposits will be permanently continued with them.

3. The moneys collected are to be paid over weekly, as heretofore, to the credit of the Treasurer of the United States, with whom, of course, the bank or banks you may select, must open an account. Instructions, as to the mode of keeping this account, and transmitting statements of it to the Treasury, will be given to them by this Department.

4. As soon as you shall have made your arrangements under this instruction, you will inform me, with precision, what they are, that the corresponding measures may be regularly and promptly taken here.

I am, respectfully, sir, your obedient servant,
ALBERT GALLATIN.

JOHN STEELE, Esq.
Collector, Philadelphia.

P. S. On equal terms, I would prefer employing the Pennsylvania Bank and the Farmers and Mechanics' Bank.

No. 2.

BANK OF PENNSYLVANIA, *March 2, 1811.*

SIR: I had the honor of laying before the directors of this institution your letter of yesterday, respecting the agency of this bank, in conjunction with the Farmers and Mechanics' Bank, in the collection of the revenue at this port.

I am directed to enclose you a copy of the resolution entered into by them, accepting of the agency on the terms proposed.

I am, sir, very respectfully, &c.

JOSEPH P. NORRIS, *P. B. P.*

JOHN STEELE, Esquire.

At a meeting of the President and Directors of the Bank of Pennsylvania, on Saturday, the 2d March, 1811, a communication, under date of the 1st instant, from John Steele, Esq., Collector of

the port of Philadelphia, addressed to the President of this Board, being read, and the subject thereof duly considered, it is—

Resolved, That the agency proposed to this bank, of transacting a part of the business of the Treasury Department of the United States, be accepted; and, in compliance with the stipulation made by the collector, it is understood that the persons having custom-house bonds to pay at this bank will be accommodated with discounts, under the usual precautions and sufficiency of the paper, intending thereby to give the first facilities of the bank to the collection of the revenue, and to those who have payments to make to the Treasury.

The President is requested to make a reply to the communication from the collector, furnishing a copy of the above resolution.

Extract from the minutes.

JONATHAN SMITH, *Cashier.*

No. 3.

The President laid before the Board of Directors a communication from the Secretary of the Treasury Department, to Larkin Smith, Esquire, Collector of the port of Norfolk, on the subject of making arrangements with this office for opening an account, and depositing custom-house bonds for collection: It is, therefore,

Resolved, unanimously, That they will, at all times, afford to the Government of the United States, and its debtors, every facility and aid in their power consistent with the interest of the institution committed to their care; but will not pledge themselves for any specific arrangement on the subject of discounts.

A true extract from the proceedings of the Board of Directors of the Office of Discount and Deposit, Bank of Virginia, at Norfolk, 5th of March, 1811.

THOS. WILLIAMSON, *Cashier.*

No. 4.

TREASURY DEPARTMENT, *March 8, 1811.*

SIR: The Collector of Philadelphia having communicated to me the assent of the directors of your institution to the propositions made by him to you for receiving the public deposits, I have now to observe, that, as the Treasurer can keep no bank book, it is necessary that a weekly statement of his account be sent to him from the bank, crediting him with all moneys received on his account, (and specifying from whom, and generally on what account,) and charging him with all bills paid. The bills are to be cancelled and returned at the same time; and a duplicate of the same account is to be also weekly sent to the Secretary of the Treasury.

From all the banks with which the public moneys will hereafter be deposited, the same statement, and, as far as practicable, the same accommodations will be expected as have heretofore been received from the Bank of the United States.

A form of the statement of the situation of the bank, to be sent monthly to the Secretary of the

Public Deposites in State Banks.

Treasury, is annexed at the foot of this letter; but the general items therein inserted, are not intended to exclude any greater number of particulars which the bank may be in the habit of entering in statements of this nature. The statement may be put under double cover, the inner one marked "private," and will be considered confidential.

With respect to accommodations, I allude at this time only to the transmission of public moneys, which cannot be conveniently effected, unless some concert exists between the banks with which public deposits will be made in the several seaports. On that subject it must be agreed by the Bank of Pennsylvania, to give credit to the Treasurer of the United States, when the public service may require it, for the amount of such drafts as he may be directed to draw in their favor on the other banks doing the public business at the several places where branches of the Bank of the United States had been established. The names of these banks, and other details, will be hereafter given. But, in order to pave the way for a permanent arrangement, it is necessary to ascertain whether the Bank of Pennsylvania can conveniently transact the public business on that principle, and an early answer on that subject will be eligible. It is proper to add, that it will not be expected that the bank should thus take drafts on Norfolk, Charleston, Savannah, and New Orleans, beyond a limited and very moderate annual amount. But it would be an additional inducement to make your institution a permanent depository of the public moneys, if they would also agree to take annually, in the same manner, a certain sum in drafts on the banks of Chillicothe and Kentucky.

I have the honor to be, &c.

ALBERT GALLATIN.

JOSEPH P. NORRIS,
President Bank of Pennsylvania.

Form of statement of the situation of the Bank.

Bills and notes discounted	- - -	\$165
Specie	- - -	60
Due from bank of (stating each bank from which a balance is due)	- - -	25
Bank notes of bank, (stating each bank,)	- - -	30
Real estate	- - -	10
		<hr/> 290
Capital paid in	- - -	\$100
Bank notes in circulation	- - -	50
Deposite to credit of Treasurer of the U. S.	- - -	30
Do. do. of*	- - -	5
Do. do. individuals	- - -	80
Due to bank of, (stating each bank)	- - -	20
Discount received—sundries	- - -	5
		<hr/> 290

* Here insert particularly the amount to the credit of each public officer, (commissioner of loans, navy agent, military agent, purveyor, &c.) who may keep his account at the bank.

No. 5.

BANK OF PENNSYLVANIA, *March 13, 1811.*

SIR: I had the honor of receiving your letter of the 8th instant, and of laying the same before the directors of this institution. They have directed me to inform you they accept the terms therein proposed, as per resolution, copy of which is enclosed.

As soon as we are notified of the banks transacting the public business, immediate measures will be taken to open a correspondence with them, in order to facilitate the fiscal arrangements of the Government.

Our present intercourse with banks in the States of Kentucky and Ohio enable us to comply with your wishes in taking drafts on Kentucky and Chillicothe. I have the honor to be, &c.

JOSEPH P. NORRIS, *P. B. P.*

HON. ALBERT GALLATIN,
Secretary of the Treasury.

A communication from Albert Gallatin, Esq. Secretary of the Treasury, addressed to the President of the board, being read, by which it appears that, in order to a permanent arrangement for transacting the public business, and making this institution the depository of the public moneys, it is necessary to have an assurance that such accommodations and facilities, as the public service requires, will be afforded; it is, therefore,

Resolved, That the President be requested to make a respectful reply to the said communication, expressing the disposition and willingness of this Board to comply with the requisitions now made, and which hereafter may be made, by the Secretary of the Treasury, so far as the same is within the ability and resources of the bank.

Extract from the minutes.

JOSEPH P. NORRIS, *P. B. P.*

BANK OF PENNSYLVANIA, *March 13, 1811.*

No. 6.

TREASURY DEPARTMENT, *March 11, 1811.*

SIR: The collector of Norfolk having communicated to me a resolution of the Board of Directors of the office of discount and deposite of the Bank of Virginia, at Norfolk, of the 5th instant, which I understand to imply a consent on their part to receive the public deposits, I beg leave to request, as the Treasurer cannot keep a bank book with your institution, that you will direct your cashier to transmit to him, weekly, a statement of his account, crediting all sums received, (specifying from whom, and generally on what account,) and charging all bills paid. The bills are to be cancelled and transmitted with the statement to the Treasurer; and I have also to request that a copy of the statement may be, at the same time, transmitted to the Secretary of the Treasury. I have the honor to be, &c.

ALBERT GALLATIN.

*The PRESIDENT of the Office of Discount
and Deposite of the Bank of Virginia,
at Norfolk.*

Public Deposites in State Banks.

No. 7.

STATE BANK, CHARLESTON, S. C.,
April 5, 1811.

SIR: On the first instant I had the honor of acknowledging the receipt of your two letters of the 13th and 19th ultimo, since which I have submitted them to the Board of Directors, who have passed the resolution I now enclose.

A desire and intention, expressed some years since, by the principal stockholders, to establish a credit with the Manhattan Bank of New York, and to enter into mutual arrangements so as to give credit to the post notes of the two banks, not meeting with the approbation of the Legislature, induced that body to impose the last enacting clause in the printed copy of the charter of our bank, which I also herewith transmit, restricting us from giving credit to any bank or banks established in any of our sister States. But the Board does not see that, in the arrangements which you have stated, there would be any violation of this charter, as it is not their intention to open any account with either of the Northern banks; but merely to take the drafts of the Government, payable at sight, which the bank must dispose of in the best manner possible; and it will be obvious to you, that the Government must always consider itself responsible for these drafts until they shall be paid, even if they are not presented for some time, and a failure of the Northern bank should, in the meantime, take place. This being understood, it cannot be said that we give any credit to a Northern bank, or that we violate either the letter or the spirit of our charter.

I also deem it proper to state that there is no doubt but that, if the clause alluded to shall hereafter be found to interfere with any arrangements which may be necessary to the accommodation of the Government, or to the benefit of the bank, it will, on a representation to the Legislature, at its next session, be repealed, as the State holds three-eighths of the capital of the bank. I remain very respectfully, &c.

FELIX WARLEY, *President.**The Hon. Secretary of the Treasury.*STATE BANK, CHARLESTON, S. C.,
April 5, 1811.

The committee to whom were referred the letters of the Hon. Albert Gallatin, of the 13th and 19th ultimo, respectfully report:

That they have taken the subject-matter of the said letters into their consideration, and recommend the adoption of the following resolutions, viz:

Resolved. That it is the earnest wish and desire of the directors of this bank to enter into all such arrangements and accommodations as will meet the views of the honorable the Secretary of the Treasury of the United States, and of the Government thereof, provided the same do not violate, and are not repugnant to, the charter of this bank.

Resolved, further, That the President of this bank do transmit a copy of the aforesaid resolu-

tion, together with a printed copy of the act of incorporation, to the honorable Secretary of the Treasury of the United States.

By order of the Board.

FELIX WARLEY, *President.*

No. 8.

TREASURY DEPARTMENT, *April 15, 1811.*

SIR: I had the honor to receive your letter of the 5th instant, and regret that the provisions of the charter of the State Bank should preclude that institution from giving to the Treasury that accommodation in the transmission of public moneys which may, at times, be indispensably necessary. On comparing, however, the probable receipts at Charleston for this year, with the probable amount of demands against the Treasury, payable at the same place, I think it improbable that the expenditure should exceed the receipts; and as it is only in that case that it would become necessary to provide for the deficiency by giving to the State Bank drafts on other banks, it is hoped that no inconvenience will, for the present, arise from the provision in its charter which forbids giving credit to banks in other States. With a view to permanent arrangements for the ensuing years, I would suggest the propriety of obtaining from the Legislature a modification in that provision, the object of which I do not understand, and which would certainly impede the operations of the bank in its relation with the General Government.

In the meanwhile, presuming that the resolution of the Board is, in every other respect, intended as an acceptance of the proposals of the Treasury, and that the requested statements will be transmitted, the collector will be instructed to continue his public deposits in the State Bank.

I have the honor to be, &c.

ALBERT GALLATIN.

FELIX WARLEY, *Esq.**President State Bank, Charleston, S. C.*

No. 9.

TREASURY DEPARTMENT, *March 28, 1811.*

SIR: It having been determined that a portion of the Treasury payments should be made through the medium of the Bank of Washington, I have now to state the principles on which it is expected this business will be transacted by the bank.

1. The bank to receive such sums as may be offered by individuals who have payments to make into the Treasury, and to pass the same to the credit of the Treasurer of the United States.

2. As the payments thus made into the bank will fall far short of the payments that will be required to be made by the bank, on account of the Treasury, the sums that may be necessary to meet these last payments will be supplied to the bank by bills on Baltimore, Philadelphia, New York, and Boston, which bills will be regulated, as far as practicable, by the mutual convenience of the Treasury in furnishing funds, and the bank in receiving them at each of those places.

3. The payments by the bank will be made on Treasury, War, or Navy warrants, directed to

Public Deposites in State Banks.

the bank by the Treasurer, or on drafts drawn by him. The payment is, of course, always to be made in specie, if required by the holder of the warrant or draft.

4. On Monday of each week a copy of the Treasurer's account with the bank, for the preceding week, is to be sent to the Secretary of the Treasury; and if the Treasurer shall find it more convenient to receive a statement of his account, in that way, than to keep a bank book, the bank will also furnish him with a similar copy.

5. At the end of every month, a statement of the situation of the bank, made out agreeably to the annexed form, is to be sent to the Secretary of the Treasury. It may be enclosed in a double cover, the inner one marked "private," and will be considered as confidential.

The above are the most material principles which regulated the connexion between the Treasury and the late office of discount and deposite at the seat of Government, and which it is desirable should continue to be maintained with the banks transacting the public business here. The assent of your direction to them will be necessary, and ought to be communicated to me as early as practicable. I shall, in the meantime, presuming from the resolution of the Board, already passed on the subject, that their assent will be given, direct the Treasurer, on the first day of the ensuing month, to place in your bank bills on Baltimore and Philadelphia for twenty thousand dollars, to form the first deposite on which the Treasury payments will commence.

I am, &c.

ALBERT GALLATIN.

DANIEL CARROLL, Esq.,

President Bank of Washington.

No. 10.

WASHINGTON, April 3, 1811.

SIR: Your letter of the 28th of March has been before the Directors of the Bank of Washington. They agree to the principles contained in that letter, relying always that we shall be treated with the same liberality extended to neighboring institutions. I have the honor, &c.

DANIEL CARROLL, of Duddington,
President.

HON. ALBERT GALLATIN.

No. 11.

TREASURY DEPARTMENT, March 28, 1811.

SIR: I have thought it proper to state the following as the principles on which it is expected that the Treasury business will be conducted by the Bank of Columbia, and to request that the same may be submitted to the Directors, for their approbation, which, when given, you will please to communicate to me.

1st. The bank to continue to receive, as heretofore, such sums as may be offered by individuals, who have payments to make into the Treasury, and to pass the same to the credit of the Treasurer of the United States.

2d. The bank to receive bills, drawn by the Treasurer on Baltimore, Philadelphia, New York,

or Boston, (regulated by the state of the funds, at the command of the Treasury at each of those places, but accommodated, also, as far as practicable, to the convenience of the bank) for such sums as may be necessary to supply the bank with the means of meeting the payments of the Treasury. Occasional drafts for the collecting in of the revenue in Virginia, will be furnished as heretofore.

3d. The payments of Treasury, War, or Navy warrants, directed by the Treasurer to the Bank of Columbia, and of drafts drawn by him on the bank, are to be made in specie, whenever the holder shall require.

4th. On Monday of each week, a copy of the Treasurer's account for the preceding week, is to be sent to the Secretary of the Treasury.

5th. At the end of every month, a statement of the situation of the bank, made out agreeably to the annexed form, is to be sent to the Secretary of the Treasury. It may be enclosed in a double cover, the one marked "private," and will be considered as confidential.

6th. The dividends on the public debt, payable at the Treasury, will be paid through the medium of the Bank of Columbia. The Register of the Treasury has been directed to place the abstracts for the quarter ending on the 21st instant, in the Bank of Columbia; and the cashier of the late office of discount and deposite, at this place, will be directed to pay to the cashier of the Bank of Columbia, twenty thousand dollars, to enable him to make these payments. The abstracts of dividends, as well those returned unclaimed, from the Loan offices, as those for stock standing on the Treasury books, for past periods, which have, heretofore, lain in the office of discount and deposite, for payment, will be placed in the Bank of Columbia, as soon as the accounts of the cashier of the office of discount and deposite can be made out and settled at the Treasury. For all sums furnished to the cashier of the Bank of Columbia, for the payment of dividends, he will be charged on the books of the Treasury, and will render his accounts for the payment at such times, and in such manner, as the Comptroller of the Treasury shall prescribe. The dividends being payable, either to the stockholders in person, or to their attorneys, and many standing powers for this purpose being now lodged in the late office of discount and deposite, they have been directed to be delivered up for the purpose of being deposited in the Bank of Columbia. But, as it may happen that they will not be ready for delivery by the first day of the ensuing month, you will direct your cashier, until the powers themselves are received, to receive a certificate of the existence and extent of such powers, from the late office of discount and deposite, as sufficient authority on which to make the payments. It is proper to mention, here, that the powers given to the President and Directors of the Bank of the United States, or their cashier, or any of their officers, in their official characters, are considered as being no longer of any validity. If any future question shall arise as to the validity of the powers, the

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Comptroller of the Treasury is to be applied to for a decision.

To avoid any confusion in the accounts between the Treasury and the Bank of Columbia, which might arise from the establishment by the bank of an office of pay and deposite in the City of Washington, it is to be understood that the whole of the Treasury transactions with the bank will be conducted through the medium of this establishment in Washington, and that no account with the Treasurer is to be kept at the bank in Georgetown. Bills drawn by the Treasurer, in favor of the bank, will be in the name of their cashier, for which credit is to be given him in Washington; and the warrants and drafts of the Treasurer will all be directed to, and payable only in, Washington. It will follow that the balance now to the credit of the Treasurer, in the Bank of Columbia, is to stand, on the first of April, to his credit in Washington, his account in the bank at Georgetown being closed from that time.

I am, &c.

ALBERT GALLATIN.

JOHN MASON, Esq.,

President of the Bank of Columbia.

No. 12.

BANK OF COLUMBIA, April 5, 1811.

SIR: The letter you did me the honor to address me on the 28th ult., on the subject of the Treasury deposits, has been submitted to the first Board of Directors convened, after it came to my hands.

I am instructed, sir, to transmit to you the enclosed resolution, and to assure you of the readiness with which this institution will, at all times, do whatever may on it depend, to facilitate the administration of the funds of the Government, and to prove to you the confidence you have been pleased to place in it has not been abused.

With very great respect, &c.

JOHN MASON, *President.*

HON. A. GALLATIN, *Secy of the Treasury.*

BANK OF COLUMBIA.

At a Board of Directors, held on Thursday, the 4th of April, a letter from the honorable the Secretary of the Treasury, dated the 28th of March, and addressed to the President of this institution, stating the principles on which it was expected that the Treasury business will be conducted, by the Bank of Columbia was laid before the board, and the same having been read and considered,

Resolved, That all and every of the terms and conditions prescribed by the Secretary of the Treasury in the aforesaid letter, be fully accepted; and that the President and Cashier take the requisite measures to comply with the same, and to carry into execution the wishes of the Secretary in relation thereto.

Test: WILLIAM WHANN, *Cashier.*

No. 13.

TREASURY DEPARTMENT,

March 28, 1811.

SIR: It is proper to inform you, that, from the end of the present month, the late office of discount and deposite in this city will cease to be

employed as the medium of the Treasury payments and receipts at the seat of Government. Commencing on the first of April, the Bank of Washington and the Bank of Columbia will be employed for that purpose, and the arrangement, in relation to them, so far as relates to your office, is as follows:

Persons who have moneys to pay into the Treasury, in this place, may pay into either bank, at their option. You will continue, as heretofore, to give your check on the back of each warrant, and will direct it as the holder shall choose, to the Bank of Washington, through which all the Treasury business with that bank will pass, and where your account will be kept; you will direct your checks to the "Bank of Columbia, Washington." They will not be payable in Georgetown.

As the new mode of keeping the accounts of your office, which will be put in operation on the 1st day of April next, will supersede the necessity of that distinction which has heretofore been made in the payment of Treasury warrants, and those from the War and Navy Departments, and as the use of checks, as distinguished from bills, will no longer be necessary, you will be pleased, commencing on that day, to discontinue their use. All your payments will then be made, either by bills registered in the Register's office, where the payments are to be made at distant places, or by sending the warrants themselves, for such payments as are to be made here, with your direction on the back, to the Bank of Washington, or Bank of Columbia.

Treasury warrants, which are to be paid by bill, will contain the direction on the face of the warrant, and all such warrants will be directed to be sent in to you immediately, from the Register's office. War and Navy warrants, which are to be paid by bill, are to be sent up to my office, and the direction will be given on the warrant itself.

I am, &c.

ALBERT GALLATIN.

The TREASURER of the United States.

No. 14.

TREASURY DEPARTMENT,

March 6, 1811.

SIR: The Treasurer of the United States has been this day directed to draw bills in your favor, on the Maine Bank, for - - - \$50,000
Saco Bank, for - - - 25,000

75,000

By an arrangement with those banks, they are bound to place the amount of bills, drawn as above, in Boston, within sixty days from the time when they are presented for payment. You are, therefore, requested to accept a compliance with those terms, as good payment of these bills, or of any similar bills which may hereafter be placed in your institution. But, in the meantime, it is necessary that the amount should appear in your account with the Treasurer, to his credit, from the time when you receive the bills from him. Care

Protection to American Manufactures.

will always be taken, that his drafts shall be so regulated, that no actual advance of funds by the Union Bank shall take place. I am, sir, &c.

ALBERT GALLATIN.

GEORGE BURROUGHS, Esq.

Cashier Union Bank, Boston.

No. 15.

TREASURY DEPARTMENT, *March 5, 1811.*

SIR: The Treasurer has been, this day, directed to draw bills in favor of your institution, as follows, viz:

On the Collector of New Haven, for	\$50,000
Do. New London, -	6,000
Do. Fairfield. -	4,000
Do. Bristol, R. Island -	35,000
Roger Williams Bank, Providence, for	45,000
Newport Bank, - - - -	30,000
	<hr/>
	170,000

By an agreement with the two above-mentioned banks, they are to place the amount of the bills drawn on them in your hands, within sixty days after the bills are presented.

The banks in New Haven and New London make remittances for the collectors in the same way, viz: in sixty days.

Drafts on the Collector of Bristol have been usually negotiated through the banks in Providence, and it is desirable that the present bill should take the same course, as a draft of specie might produce pressure and inconvenience.

As it is some time since similar drafts were furnished to your institution, I have thought it necessary to remind you of the mode in which their payment will be effected. I am, &c.

ALBERT GALLATIN.

HENRY REMSEN, Esq., *President*

Manhattan Company, New York.

No. 16.

TREASURY DEPARTMENT, *May 2, 1811.*

SIR: For the purpose of bringing into the service of the Treasury the public moneys collected at several of the small ports in Virginia and North Carolina, near Norfolk, bills have heretofore been drawn by the Treasurer upon the Collectors of those ports, and sent to the cashier of the Office of Discount and Deposit of the United States' Bank at Norfolk, for sale. A credit has been authorized, and they have usually been disposed of without delay. Notes, at the terms of credit allowed, are taken from the purchasers, with endorsers, to make them perfectly safe.

It is desirable that the same facilities should be afforded by the bank now transacting public business at Norfolk; and I will thank you to inform me whether the Treasury will receive them from your institution.

It is proper to mention, that, although the bank is not actually in cash for these bills till the notes given for their purchase are paid, yet, to accommodate the Treasury accounts, it is necessary that the Treasurer should be credited for them as soon as they are received. But care will always be taken so to regulate the drafts of the Treas-

urer on the bank, that no payment by the bank, on account of the bills on Collectors, which they may have thus received, will ever be required till the money has been actually received by the bank for them. A note of a single line, at the foot of the Treasurer's weekly account, stating the amount, either of bills on hand, unsold, or of notes for bills remaining unpaid, will always afford the necessary indication upon this point, and will be duly attended to.

In disposing of the bills, it is expected that the bank will exercise a sound discretion as to the makers and endorsers of the notes taken in payment for them, but the United States will remain responsible for any ultimate loss.

The notes are not to be renewed after the credit first given has expired. If they are not then paid, the amount will be refunded to the bank, and the United States will pursue the necessary measures for recovering the sum due from the makers and endorsers of the notes.

The ports on which the Treasurer will occasionally draw, in pursuance of this arrangement, will be Folly Landing, Cherry Stone, and East River, in Virginia; Camden, Edenton, Plymouth, Washington, and Newbern, North Carolina. The terms of credit heretofore allowed, have been, for bills on East River, Camden, and Edenton, sixty days, and for the others, ninety days. I have &c.

ALBERT GALLATIN.

RICHARD E. LEE, Esq.,

President, &c., Bank of Virginia, Norfolk.

No. 17.

TREASURY DEPARTMENT, *August 2, 1811.*

SIR: I have directed the Treasurer to draw a bill, in favor of your cashier, on the Collector of Savannah, for twenty-five thousand dollars, for which you will obtain payment, either by sending to Savannah for the amount, or in any other mode that shall be most convenient to your institution. As this accommodation, in relation to the revenue collected at Savannah, is the only one, in relation to the transmission of the public moneys, demanded by the Treasury from the State Bank, I shall expect it to be continued; and that the bank will, from time to time, as the public moneys accumulate at Savannah, and as it may become necessary to draw for them in their favor, take the necessary measures, at their own expense, of obtaining the payment of such drafts from thence. I am, respectfully, &c.

ALBERT GALLATIN.

FELIX WARLEY, Esq.,

President State Bank, Charleston.

PROTECTION TO MANUFACTURES.

[Communicated to the House, January 29, 1812.]

To the Honorable the Senate and the Honorable the House of Representatives of the United States in Congress assembled, the Directors of the New Hampshire Iron Factory Company beg leave respectfully to represent:

That said company own a very valuable bed of primitive iron ore, in the town of Concord, in the

Protection to American Manufactures.

county of Grafton, and State of New Hampshire; and that said company have expended a large sum of money in erecting furnaces, forges, and machinery, in the town of Franconia, in the same county, for the purpose of manufacturing bar iron and various sorts of cast iron ware; that their works have been in operation for more than three years, but, owing to the high price of labor, and the low price they been obliged to receive for their manufactures, the said company have never realized one dollar, for the use of their capital stock, which amounts to more than one hundred thousand dollars; and that they have but little prospect of making their works profitable, or worth pursuing, while European manufactures, of the same kind, can be imported and sold in this country, for the prices at which they have been sold, for several years past.

They therefore pray, that, when commerce is laboring under great embarrassments, from the oppressive measures of belligerent Powers, that Congress, in their wisdom, would extend their fostering aid and encouragement to American manufactures, by imposing heavy duties on all imported hollow iron ware, and shapes of various kinds, an abundant supply of which, with proper encouragement, may be cast in our own country. This, we believe, will afford to merchants a prospect of employing part of their capital, withdrawn from the ocean, to some advantage, in establishing, and carrying on, useful manufactories. And, as in duty bound, will ever pray the New Hampshire Iron Factory Company, by their directors.

EBEN'R BECKFORD, and others.

SALEM, January 16, 1812.

[Communicated to the House, February 3, 1812.]

To the Senate and House of Representatives in Congress assembled:

The subscribers, brewers of malt liquor, in the city of New York, having long had to encounter with many impediments to the extension of their business, so as to render it profitable either to themselves, or as an useful branch of manufactory to the community at large, take the liberty to suggest to Congress, that, while the consumption of ardent spirits continues to form so common a drink, for the generality of people, particularly among the laboring part of society, it will operate against the use of malt liquors, which circumstance, together with the quantity of foreign beer heretofore imported, has lessened the consumption of the article manufactured at home, and which, in the event of the intercourse being opened, may again be the case.

With this view of the subject, we are induced to solicit the attention of Congress, in order that some legislative aid and encouragement may be afforded in the premises.

It is not for us to expatiate on the benefits which may result to the community, as to the preference, in point of health, which malt liquor may have to that of ardent spirits, or of the policy of encouraging the one, and of discouraging the other, even in a moral point of view; these are

considerations, so connected with individual and general good, and so according with the system adopted by Congress, for promoting the manufactories of our country, and so congenial with the spirit of the nation, that we shall forbear expressing much on the subject.

We, therefore, submit to your consideration the propriety of adopting such measures as may be promotive of encouraging the manufactory, and use, of malt liquors, in the United States.

MURRAY & MILBANK, and others.

NEW YORK, 1st mo., 19, (January) 1812.

[Communicated to the House, March 6, 1812.]

To the Honorable the Senate and House of Representatives of the United States of America, the undersigned citizens of the State of Connecticut respectfully represent

That we have lately observed, among the various applications to Congress, on the subject of commerce, petitions for the importation of wire from Great Britain, on a suggestion, as we believe, altogether unfounded, that a supply of wire cannot be made in the United States, and that such importation is necessary to our infant manufactories. We therefore beg leave to state, that, since the first of August last, we have erected, in the towns of Simsbury and Winchester, in this State, two manufactories for making iron wire, wherein, without any previous knowledge of the business, we have succeeded in making the various species of iron wire, of the best quality, from native ore, which with suitable encouragement, may be increased to any quantity required, and afforded at a moderate price.

We therefore humbly request, that, instead of allowing the importation of wire, as heretofore, free of duty, whenever the importation thereof may be again allowed, it may be done on payment of such duties as to your honors may appear reasonable. And, as in duty bound, will ever pray.

SAMUEL HEADLEY & Co.

WADSWORTH, ALLYN & Co.

As a proof of our success, we enclose herewith, two samples of card wire, made in said Simsbury.

HARTFORD, February, 25, 1812.

From an examination of several samples of iron wire, made in Simsbury and Winchester, and a knowledge of the reputation of the petitioners, we believe the facts stated in the foregoing petition are true.

JOHN J. PETERS, and others.

HARTFORD, February, 25, 1812.

[Communicated to the House, March 20, 1812.]

To the Honorable the Senate and House of Representatives of the United States in Congress assembled, at their session, now in 1812, the petition of the subscribers, citizens, inhabitants, and iron manufacturers, in the Commonwealth of Pennsylvania, on behalf of themselves and others, humbly sheweth:

That, in order to improve their estates, respectively, as well as to aid the manufactories of the United States, in general, they have, at large,

Report of the Commissioners of the Sinking Fund.

expense erected a number of furnaces, forges, rolling and slitting mills, steel furnaces, and tilt hammer forges, for manufacturing iron and steel, for the use of the citizens of the United States.

That, in common with other citizens of the United States, pursuing the same branches of business, they expected a reward, by a just and reasonable sale of their productions, for the expenses and industry necessary to erect, carry on, and support, works of such public utility to the American people.

That, to their surprise, they find that the subjects of those Governments, or Kingdoms, in Europe, who have endeavored to injure, if not to annihilate, the commerce of the United States, are bringing into the American market their wrought iron, and endeavoring to undersell the American manufacturers of those articles, whilst the commerce of the United States is subjected, in those countries, to such restrictions, duties, risk, and danger, so as nearly to destroy all the advantages the United States have any right to calculate on by commerce.

Your petitioners beg leave further to state, that they have succeeded in their several branches of iron manufacture equal to their expectations; and that the iron they make is equal, if not superior, to any imported from beyond sea, for the various purposes to which it is necessary to apply it in the United States.

They therefore pray that the honorable the Legislature of the United States will afford them protection to their manufactories, by law, laying such countervailing duties on imported wrought iron, as will secure a just and reasonable reward to your petitioners, and others pursuing the same business, or in such way as in your wisdom may seem meet.

And your petitioners, as in duty bound, will ever pray.

DAVID STEWART, *and others.*

SINKING FUND.

[Communicated to the Senate, February 5, 1812.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their last report, of the 2d of February, 1811, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the first day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

G. CLINTON, *President of Senate,*

J. MONROE, *Secretary of State.*

A. GALLATIN, *Sec'y Treasury.*

WM. PINKNEY, *Att'y Gen. U. S.*

WASHINGTON, *February 5, 1812.*

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1809, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - - \$360,999 68

Together with the sums disbursed from the Treasury, during the year 1810, on account of the principal and interest of the public debt, which sums, as appears by the statement C, annexed to the last annual report, amounted to - - - - 8,001,972 43

And amounting, together, to - - - \$8,362,972 11

Have been accounted for in the following manner:

I. There was repaid into the Treasury, during the year 1810, on account of the principal of moneys heretofore advanced for the payment of the domestic debt, as appears by the statement E, annexed to the last annual report, the sum of - - - \$2,639 37

II. The sums actually applied, during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement A, to seven millions eight hundred and sixty-seven thousand one hundred and fifty-eight dollars and fifty seven cents, viz:

1. Paid in reimbursement of the principal of the debt, including the whole of the exchanged six per cent. stock outstanding - - \$5,153,328 16

2. Paid on account of the interest and charges on the public debt - - - 2,703,830 41

7,867,158 57

III. The balance remaining unexpended at the close of the year 1810, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - - 493,174 17

\$8,362,972 11

That, during the year 1811, the following disbursements were made out of the Treasury, on account of the principal and interest of the public debt, viz:

I. On account of the interest and reimbursement of the domestic funded debt - - - \$4,736,092 06

II. For interest on temporary domestic loans - - - 69,842 45

III. For repayment of temporary domestic loans - - - 2,750,000 00

IV. On account of the interest on Louisiana stock, and on exchanged and converted stocks payable in Europe - - 592,160 49

Amounting, together, as will appear by the annexed list of warrants, marked C, to - - - - \$8,148,095 00

Suspension of Payment of certain Bills.

Which disbursements were made out of the following funds, viz:

I. From the funds constituting the annual appropriation of eight millions of dollars, for the year 1811, viz:

From the fund arising from the interest on the debt transferred to the Commissioners of the Sinking

Fund, as per statement I, - - - \$1,818,374 34

From the fund arising from the sales of public lands, being the amount received in the Treasury from 1st October, 1810, to 30th of September, 1811, per statement K - - - 767,061 23

From the proceeds of duties on goods, and wares, and merchandise, imported, and on the tonnage of vessels - - - 5,414,564 43

\$8,000,000 00

II. From repayments into the Treasury, on account of advances for the payment of dividends on the domestic funded debt, and for the purchase of foreign remittances, as will appear by the statement E, viz:

Principal advanced from the Treasury, repaid - - - \$146,666 67

Interest and damages recovered - - - 1,428 33

148,095 00

8,148,095 00

That the abovementioned disbursements, together with the above stated balance, which remained unexpended at the close of the year 1810, of - - - 493,174 17

Together with a further sum, arising from profit on remittances from America to Europe, purchased during the year 1811, and amounting, as will appear by the statement D, to - - - 56,726 14

And, together, also, with the further sum of £4,900 sterling, in bills taken in payment of the principal of an equal sum of protested bills, as will appear by the same statement D, and equal, at par, to - 21,777 78

Making, together - - - \$8,719,773 09

Will be accounted for in the next annual report, in conformity with the accounts which shall then have been rendered to the Treasury Department.

That, in the meanwhile, the manner in which the said sum has been applied, is estimated as follows:

I. The repayments into the Treasury, on account of the principal, including the amount of sundry bills received in exchange for others previously purchased, which had been protested, have, during the year 1811, amounted, as by the abovementioned statement E, to - - - \$168,444 45

II. The sums actually applied, during the year 1811, to the principal and interest of the public debt, are estimated, as follows:

1. Paid in reimbursement of the principal of the public debt, and including the temporary loan of two millions seven hundred and fifty thousand dollars, obtained in 1810, from the Bank of the United States - - - \$5,543,470 89

2. Paid on account of interest and charges on the public debt - 2,470,372 06

As will appear by the estimate F - 8,013,842 95

III. The balance which remained unexpended at the close of the year 1811, and applicable to payments falling due after that year, as per estimate G, at - - - 537,485 99

\$8,719,773 09

That, in conformity with the resolution of the Commissioners of the Sinking Fund, of April 24, 1811, (L,) there was reimbursed, at the close of the year 1811, in the manner prescribed by the eighth section of the act of February 11, 1807, a portion of the converted stock created by the third section of that act, of \$1,294,452 29; which sum of \$1,294,452 29, forms a part of the sum of \$5,543,470 89, above stated, as the amount of the principal of the public debt reimbursed in the year 1811.

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, and standing to their credit on the books of the Treasury, on the 31st December, 1811, no stock having been transferred in payment for lands during the year 1811.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, Feb. 1, 1812.

SUSPENSION OF PAYMENT OF CERTAIN BILLS.

[Communicated to the House, April 6, 1812.]

COMMITTEE ROOM, March 4, 1812.

STR: Your several letters, of December 29th, and of the 25th ult., in relation to sundry bills drawn by Mr. Armstrong upon the Treasury of the United States, in favor of the Cashier of the French Treasury, for the amount of certain claims, arising under the Louisiana convention, in favor of American citizens, have been received, and, with the documents accompanying them, submitted to the Committee of Ways and Means.

I am instructed by the committee to inform you, as the result of their consideration, that, in the present state of that transaction, and from a view of the circumstances under which it is presented to them, they have deemed it their duty

Suspension of Payment of certain Bills.

not to interfere in the regular course of accountability to which it is now subject.

I have the honor to be, &c.

EZEKIEL BACON.

Hon. A. GALLATIN, *Sec'y Treasury.*

TREASURY DEPARTMENT, *Feb. 25, 1812.*

SIR: I had the honor, on the 2d December last, to address you on the subject of Mr. Armstrong's accounts, and now enclose a letter lately received from him.

Permit me to remind the committee, that the Secretary of the Treasury is bound to pay the bills drawn by the Minister: and that the law having vested him with no discretion in that respect, the bills alluded to in my former letter will be paid whenever presented for that purpose. If, therefore, it is the opinion of the committee that they should not be paid, a law to that effect is necessary. On the other hand, if it be intended that they should be paid, a law is equally requisite to authorize the accounting officers to credit Mr. Armstrong for the amount. The detention of the bills in France (for causes not known at the Treasury) having afforded an opportunity to obtain the sense of Congress on the subject, it would seem hard not to decide on it: for, if no decision be made, the bills will be paid, and Mr. Armstrong will remain accountable for the amount; whilst, on the contrary, he has no interest in the nature of the decision, provided it shall be made, since it is immaterial to him whether the bills be refused payment, in which case he will not be charged at all, or whether, being paid, he receives credit for their amount.

ALBERT GALLATIN.

P. S. I would wish to be enabled to inform Mr. Armstrong whether his presence be thought necessary.

Hon. EZEKIEL BACON, *Chairman, &c.*

RED HOOK, *7th February, 1812.*

DEAR SIR: Not having yet seen a reference to any committee of Congress, of that part of my bill account which you have not hitherto thought yourself authorized to settle without the intervention of that body, and seeing much new business growing up for you, I begin to fear that the present session, like the last, will pass over without obtaining a decision on this subject. If Congress should not approve the arrangement made between the Minister of the French Treasury and myself, which was left in the hands of the Cashier General, bills to a certain amount, for the purpose of discharging a given number of specified claims which had been liquidated in the ordinary form, but which, from various causes, had not, after a lapse of more than two years, been paid to the claimants, it is important that they should do so while they have a power over the funds. In this case they could, by their Minister in Paris, institute a new negotiation, and give such other form to the business as they might think safer and better than that which had been adopted. You will remember, that, when at

Washington, I pressed the reference on this ground, and even invited you to suspend the payment of the bills, should they arrive, until the directions of Congress should be procured. This, you then thought, you had no power to do, which gave, and continues to give to the affair, an importance, as it relates to myself, which must be my apology for pressing it again on your notice. If you will have the kindness to advise me of the time you mean to offer it to the committee, I will not hesitate to go to Washington, and carry with me all that part of my correspondence with the French Government, which has any relation to the subject. There is, I find, much of it, and I would choose to be the bearer of it myself. When I recollect the labor and vexation I have already had in executing the convention; that it was a duty altogether wide of my ministerial functions, and entirely without remuneration of any kind; I do think (as you have very frankly acknowledged in one of your letters to me) that I ought to be as little embarrassed by it, hereafter, as possible. To me, no embarrassment could have arisen, had the reference been made as you promised and intended, at the last session of Congress; because, at that time, the remedy, whatever it might have been, would have been interposed before the bills were presented and paid, and of course before any charge of them against me could have been made. Had Congress approved the arrangement, there would have been an end of the business; had they disapproved it, they must, at the same time, have interdicted the payment of the bills. In either case, therefore, I should have been at my ease. Whether, however, the bills have, or have not, been paid since, I must entreat you to delay the reference no longer. This I have a right to claim, as well from your good will as your justice, and in both I have entire confidence.

I should be much obliged, if, in acknowledging the receipt of this letter, you would be good enough to state whether the bills in question have arrived and been paid.

With very great esteem and regard, I am, &c.

JOHN ARMSTRONG.

Hon. ALBERT GALLATIN.

TREASURY DEPARTMENT, *Dec. 2, 1811.*

SIR: Mr. Armstrong, in conformity with the second section of the act of November 10, 1803, "making provision for the payment of claims of the United States on the Government of France," &c., had been charged with the whole amount of bills drawn under the Louisiana Convention. As that instrument contained a provision which made the French Government the final judge of all the claims, Mr. Armstrong has been credited, on producing, as his voucher, a certificate from that Government, a copy of which is enclosed in the papers now transmitted. In point of form, however, there has been, in one instance, a deviation from the Convention, which renders the sanction of Congress necessary, before the accounts can be finally settled.

In order to close the transaction, Mr. Arm-

Suspension of Payment of certain Bills.

strong and the Minister of the French Treasury entered into an agreement for the disposition of a sum of 196,658 43 francs, which was the unapplied balance of the twenty millions payable by the convention on account of American claims. The accounting officers of the Treasury do not consider themselves authorized to credit Mr. Armstrong for the amount of the bills drawn by virtue of that agreement, principally because a portion (amounting to 115,534.41 francs) is drawn in favor of the Cashier of the French Treasury, for certain claims which the French Government has, on that account, assumed to pay, instead of being drawn, according to the convention, in favor of the claimants themselves. And for the same reason, a doubt arises whether those bills, which have not yet been presented for payment, ought to be paid by the Treasury.

The objections, together with Mr. Armstrong's explanations of the arrangement, are enclosed.

Although these embrace some other collateral points, the agreement above stated is the only one under the consideration of the Treasury, and which prevents a final settlement.

It will be recollected, that it had, once before, been necessary to apply for a similar legislative sanction, which was given by the act of April 8th, 1806. I have the honor to be, &c.

ALBERT GALLATIN.

The Hon. EZEKIEL BACON,
Chairman Committee Ways and Means

TREASURY DEPARTMENT, April 2, 1812.

SIR: I regret to be obliged, once more, to trouble you on the subject of Mr. Armstrong's account. But you will perceive, from the enclosed extract of his letter to me of the 19th ult., that he has received information that a part of the bills, drawn in the name of the Cashier General of the French Treasury, has been diverted from the objects of the agreement, and been vested in a person who was not a claimant under the convention.

The inference drawn from that fact by Mr. Armstrong is, that it authorizes the Secretary of the Treasury to refuse the payment of the bills until evidence shall be given, that the terms of the agreement, on the part of France, have been fulfilled. But, with that agreement, the Treasury has nothing to do, and its decision cannot be affected by the fulfilment or non-fulfilment of those terms, on the part of France. Provided the bills are drawn by the Minister of the United States at Paris, and provided they are, on the face thereof, expressed to be drawn under the convention, and are duly endorsed by the person in whose favor drawn, they *must* be paid at the Treasury. Yet it would be very unpleasant for the Secretary to be placed in that situation, after the information received from Mr. Armstrong. And as this information affords solid ground why the payment of the bills should be suspended until evidence, as above-mentioned, shall have been received, it seems proper to lay again the subject before the Committee of Ways and Means, who

12th CON. 1st SESS.—66

may, if they view the new fact, now communicated, in the same manner, propose a provision, authorizing the Secretary of the Treasury to refuse or suspend the payment of the bills.

I have the honor to be, &c.

ALBERT GALLATIN.

HON. EZEKIEL BACON,
Chairman Committee Ways and Means.

Extract of a letter from General Armstrong to the Secretary of the Treasury, dated Red Hook, 19th March, 1812.

"I have received information recently from France which essentially alters its circumstances,* and will, I think, make a ministerial injunction on the payment of the bills drawn to the order of the Cashier General, both proper and necessary, until evidence shall be given, that the terms of the agreement on the part of France have been fulfilled. The substance of this information is, that part of these bills have been diverted from the objects of the agreement, and been actually vested in a person of the name of Dauchy, who was not a claimant under the convention, either in his own right or in that of another. In this information I have the most entire confidence. The man who gives it cannot mistake, and will not deceive. If anything in the form of an affidavit, with regard to the facts of my being possessed of such information, or of my belief that it may be relied upon, is requisite, it shall be immediately furnished."

A.

Extract of a letter from the Secretary of the Treasury to General Armstrong, dated September 4, 1809.

"There are several bills drawn in the name of the Cashier General of the public Treasury, without any indication of the claim, or on whose account they are drawn. As he could have no right to draw bills in his own name, the claim out of which they arose ought to be made known to the Treasury of the United States.

"The last claim on the second French list, which is made to include the whole balance remaining undrawn of the twenty millions of francs, appears to have been left by the Emperor to be drawn for in any name you should designate under certain conditions. The nature of this transaction, the claims which this sum is intended to satisfy, and the persons who are entitled to the money, must be explained before you can be discharged regularly at the Treasury from the amount. It must also be shown that Mr. Warden, in whose name the bills have been drawn, has paid over the money to the persons entitled to receive it."

B.

PARIS, February 6th, 1810.

SIR: Your letter of the 4th September last, having made the detour of Amsterdam, did not

*Circumstances of the case.

Suspension of Payment of certain Bills.

reach me till within the last week. The variations which you state between the general list of vouchers and my bills drawn on the Treasury, have arisen principally from a desire of clerks in the French bureau to abridge their own labor. It becomes a duty, on my part, therefore to give you entire copies of the original vouchers on which the seven bills noted by you as requiring explanation have been drawn, as well as of those on which payments have been made to the order of the Cashier General of the French Treasury. To these you will find subjoined, an explanation of the final arrangement of the Louisiana business; the claims which have been satisfied by it; the names of the persons for whose use the bills have been paid; and lastly, the proof that Mr. Warden has paid them. Hoping that this explanation will discharge me from all responsibility in the case,

I am, sir, with great consideration, &c.
JOHN ARMSTRONG.
Hon. ALBERT GALLATIN, &c.

No. 51. The Minister of the Public Treasury, charged with the execution of the Convention of the 10th Floréal, year 11, (30 April, 1803,) certifies to General Armstrong, Minister Plenipotentiary of the United States,

That, by decision of His Imperial Majesty, the liquidation of livres 164,301,15.5 (francs 162,248.4) made in the name of Eric Gladd, is reduced to one-half; that the francs 81,124.2, forming the other half, and chargeable upon the twenty millions, remain at the free disposal of General Armstrong, under condition: 1. That Mr. Mitchell shall no longer have the right to claim, from the Public Treasury, the 14,000 francs which remained to be paid, of the 20,000 allowed to him by the former decision of His Majesty. 2. That the claim made in the name of Maurice Giraud, arising out of contracts made between the agents for the subsistence of Paris and him, in the year 4, shall remain extinguished, without being capable, under any circumstances, of being renewed, against the French Government, either by the said Giraud, or by any other person in his right.

That the francs 81,124.2 to which Eric Gladd's liquidation is reduced, and the francs 14,000 remaining of the sum previously allowed to Mitchell, shall be paid to the Public Treasury, making - - - - - *Francs 95,124.2*

That the same course shall be taken with the undermentioned liquidations, which have not yet been claimed: - - - - -

No. 27. John Clark,	- - - - -	95,124 02
58. Samuel Leighton,	- - - - -	2,768 32
141. Tupper & Platt,	- - - - -	11,626 39
392. Perron,	- - - - -	3,132 01
395. Nicholas Goix,	- - - - -	1,983 15
	- - - - -	900 52

Francs 115,534 41

By the delivery of bills drawn to the order of the Cashier General, for the sum of francs 115,-

534.41, the Public Treasury will stand bound to acquit the claims which may be made in the names of Eric Gladd, John Clark, Leighton, Tupper & Platt, Perron, and Goix.

That this sum of 15,534.41, and the 81 124.02 placed at the disposal of General Armstrong, complete the amount of American claims liquidated and chargeable on the twenty millions; that the convention of the 10th of Floréal, year 11, will thus be definitely executed, and the payment of the twenty millions entirely completed.

Division of the bills to be delivered.

Three bills of 25,000	- - - - -	75,000 00
One do.	- - - - -	26,534 41
One do.	- - - - -	14,000 00

Francs 115,534 41

The Count of the Empire, Minister of the Public Treasury,
MOLLIEN.
PUBLIC TREASURY, February 21, 1809.

MINISTRY OF THE PUBLIC TREASURY,
PARIS, March 14, 1809.

SIR: I have received, from your Excellency, your letter of the 10th of this month, the five bills to the order of the Cashier of the Public Treasury, together, frs. 115,534.41, which were to be delivered conformably to the decision of His Majesty.
MOLLIEN.

His Excellency Gen. ARMSTRONG.

Explanation in the last article in the general voucher
No. 2.

In the month of February, 1808, many difficulties arose with regard to the application of what remained of the Louisiana fund. A proposition, founded on the exclusive right of the French Government to this balance, was received by me, and promptly rejected. A second proposition, No. 1, followed, less objectionable, indeed, but sufficiently so to be rejected also. This letter, apparently, left to me the power of applying the sum gained to the fund, on the reduction of Gladd's claim, but really appropriated that sum to those of Dauchy and Swan, neither of which had received my approbation. A third proposition, No. 2, was then offered, which left nothing in controversy between Mr. Mollien, and myself, but the payment to Dauchy of 14,000 frs.* Believing that this was not a point to higggle upon, extremely anxious to close the business, and fearful lest a too great tenaciousness might defeat its own object, I adopted the last proposition, (inserting the two articles underscored) and transmitted it to the Minister, officially, with my letter, No. 3, of the 16th February, 1809. On the 21st of that month, I received his answer, No. 4. The voucher on the same day by Mr. Mollien, and the payment by me, on the 10th of March, p. 12, were the consequences of their arrangement. It remains, therefore, only to show what was the

*This very thing had already protracted the settlement one year.

Suspension of Payment of certain Bills.

appropriation of the balance of 81,104f. 4c., which had been put by their arrangement, at my disposition. This was as follows, viz: to John Holmes, claimant for supplies of provisions, 5,000f.; to John Mitchell, do., for supplies, do., furnished through Perotise, 14,000f.; to Joseph Russell, for ship Fame, 62,000f. In making this division, I was guided altogether by the nature of these several claims, their extent, and the degree to which they had been already satisfied. Besides, of the sum granted to Mr. Russell, there has been retained (as stated in a former letter) 25,000f. so that the sums actually paid have been—

5,124 francs, 4 centimes,	in behalf of Holmes,
14,000 do - -	in behalf of Mitchell,
37,000 do - -	in behalf of Russell.

The first and last of these sums were paid to the attorney of Russell and Holmes, (Mr. O'Mealy,) a copy of whose receipt is annexed, No. 5, and Mr. Warden, being himself the attorney of Mitchell,* made such payments on his account as had been directed by him.

No. 1.

The following are the principles on which we may now hope to terminate the Louisiana affair:

1. There remains a disposable sum of 14,000frs. which may serve to pay Mr. Mitchell. The credit of Dauchy, for which that sum was intended, may be provided for out of the funds mentioned below.

2. There are four credits not claimed; those of Gladd, Leighton, Tupper and Platt, and Goix. That of Gladd, including the interest, amounts to the sum of 162,634.68 frs. That may be divided in equal moieties; the credits of Leighton and the others, to remain entire to the Treasury. And it may be stated, that, with one-half of Gladd's credit, and the whole of Leighton's and the others, the public Treasury shall be charged to meet, in the most convenient manner, the final claims which may be made by the parties interested, without the Government of the United States being, in any event, liable to be called upon for them.

To complete this operation, General Armstrong shall deliver bills to the Treasury, drawn in the name of the Cashier General, for the amount agreed upon.

3. Of the other half of Gladd's liquidation, amounting to 81,317f., it shall be expressed that Mr. Armstrong is to make the following application: 14,000 frs. to pay Dauchy, and the balance for the discharge of Maurice Giraud, who shall declare that he renounces all future demands, in any way, upon the French Government.

4. The proposition for the arrangement upon these terms, is to be made by Mr. Armstrong, who may take advantage of the intentions of his Government, which has manifested a wish that the liquidation of Gladd should be reduced.

*Mr. Mitchell, being now in the United States, will give to Mr. Gallatin such further information on this head as he may wish.

5. The Minister of the Treasury will obtain upon all this, the ideas of His Majesty, whose approbation cannot be doubted, when the two Ministers shall have agreed; and, the approbation once given, the Louisiana affair will be irrevocably completed.

No. 2.

The Louisiana liquidation may be finished as follows:

1. The 14,000 frs., still to be disposed of, shall remain to the Treasury.

2. The little liquidations of Leighton, Tupper and Platt, and Goix, shall remain to the Treasury, to be paid over to the claimants.

3. The liquidation under the name of Gladd, amounting to 163,891 frs. shall be divided into equal moieties. One of these moieties, amounting to 81,945.50 frs. shall be paid to General Armstrong, to be disposed of as he shall think proper.

4. General Armstrong shall deliver to the Treasury, bills drawn in favor of the Cashier General, for the 14,000 frs. the little liquidation of Leighton, Tupper and Platt, and Goix, and for the 81,945.50 frs.

5. He shall, in like manner, place in the hands, and draw in favor of D. B. Warden, bills amounting to the sum of 81,945.50 frs. for account of Mitchell and others.

6. It shall be stated, that neither Mitchell, nor Maurice Giraud, are, hereafter, under any pretence, to make a claim against the Public Treasury.

7. The Minister of the Public Treasury shall furnish Mr. Armstrong with a general authority for the above payments, conformably to the decision which may be given by His Majesty, and in the ordinary form.*

PARIS, February 1, 1809.

SIR: I have the honor of submitting a proposition† to your Excellency, the object of which is to bring to a close the very protracted business of the convention of 1803. Should it meet your Excellency's approbation, you will be pleased to take the step necessary to give it execution. Should you disapprove it, you will be pleased to signify your disapprobation. Accept, &c.

JOHN ARMSTRONG.

MINISTRY OF THE PUBLIC TREASURY,
PARIS, February 14, 1809.

SIR: The mode proposed by your Excellency, for completing the payment of the twenty millions, has been approved by His Majesty. I rejoice at my concurrence in the adoption of measures which go to terminate, definitely, and to our mutual satisfaction, the execution of the convention of the 10th Floréal, year 11.

* This article, and article No. 5, were the articles added by me.

† This was proposition No. 2.

Suspension of Payment of certain Bills.

I have the honor to transmit to your Excellency the certificate containing its details. I pray your Excellency to accept, &c. **MOLLIE.**

The MINISTER, &c., of the U. S.

C.

TREASURY DEPARTMENT, Nov. 1, 1810.

SIR: I have the honor to transmit a copy of the statement of your account (for bills drawn under the Louisiana Convention) as adjusted by the Auditor of the Treasury, together with copies of two statements therein referred to. You will perceive that the two sums suspended, and not yet carried to your credit, consist, 1st, of the bills which have not yet been paid; 2dly, of the amount drawn in favor of Mr. Warden, under your arrangement of February, 1809, with Mr. Mollien. But neither are you, or can you, be charged with the first item, until the bills shall have been paid at the Treasury. The only point, therefore, on which the accounting officers wish some further explanation, is that of the arrangement with Mr. Mollien; it being doubted whether (however proper it may have been in itself under all the circumstances of the case) it is in conformity with the convention; and whether, therefore, they can legally give you credit for the amount paid at the Treasury in consequence thereof. I have the honor be, &c.

ALBERT GALLATIN.

His Exc'y JOHN ARMSTRONG.

Notes on Mr. Armstrong's letter of February 6, 1810, containing explanations upon the points stated in the letter of the Secretary of the Treasury to him, of September 4, 1809, as requiring to be cleared up, before his account, for bills drawn under the Louisiana Convention, could be settled and closed at the Treasury.

1. *Variations between the names contained in some of the bills, and the names entered against the corresponding claims in the French lists.*—Seven cases of this nature were particularly pointed out. Copies of the vouchers (consisting of the minute, or order, of the Minister of the Public Treasury, for the drawing of the bills) are furnished, and appear satisfactory.

2. *Bills drawn in the name of the Cashier General of the Public Treasury.*—The right of the Public Treasury of France to receive any bills under this convention, may well be contested; but it is perhaps, not the time now to make any objection to it. It was a subject of discussion between Mr. Armstrong and the French Minister, and the result was, that he drew the bills; his motives for acceding to this measure have been explained in his correspondence. The sum of 115,534.41 francs, being the last sum drawn in the name of the Cashier General, however, stands upon a different footing from the other sums drawn in his name, and is to be separately considered under the next head.

3. *A sum of 81,124.02 francs, drawn by Mr. Armstrong in the name of David B. Warden.*—This sum, by Mr. Armstrong's explanation, is

closely connected with the next preceding sum of 115,534.41, drawn in the name of the Cashier General of the Public Treasury, and the following seems to be the history of the transaction: After paying all the claims admitted under the Convention, which were applied for by the claimants, there appeared, in February, 1809, to be a sum of 196,658.43 francs remaining of the twenty millions; this sum appears to have been originally destined for the payment of the following claims, viz:

	Francs.
Eric Gladd - - -	162,248.04
John Clark - - -	2,768.32
Samuel Leighton - - -	11,626.39
Tupper and Platt - - -	3,132.01
— Perron - - -	1,983.15
Nicholas Goix - - -	900.52

182,658.43

John Mitchell - - - 20,000

Of which had been paid 6,000

14,000.00

Francs, 196,658.43

The bills for the six claims first mentioned had not been applied for; Mitchell had applied for his bills, and demanded twenty thousand francs, but only six thousand had been given him. This being the state of things, the Emperor resolved (see Mr. Mollien's letter to Mr. Armstrong, in the form of a certificate, dated 14th March, 1809) that Eric Gladd's claim should be reduced to one-half of the sum at which it had been admitted, and that the half of that claim, thus rejected, amounting to 81,124.02 francs, should be put into the hands of Mr. Armstrong, to be given to what claimants he pleased: *Provided*, 1. That Mitchell should no longer claim from the French Treasury, the fourteen thousand francs still due to him, (which was virtually to say, that Mr. Armstrong must pay him out of this sum thus put at his disposal.) 2. That a claim of Maurice Giraud, on the Treasury of France, should also be abandoned, (implying, also, as is presumed, that this claim must be paid by Mr. Armstrong, out of this sum, and which he is supposed to have paid to John Holmes, in right of Giraud.) And, 3. That the other half of Gladd's claim, which was still to be considered as recognised for a valid claim, amounting to 81,124.02 And the other five claims, not yet applied for, amounting to - - - 20,410.39 And the amount of Mitchell's claim, unpaid, and which Mr. Armstrong was now to pay out of the sum put in his hands, viz: - - - 14,000.00

And amounting, altogether, to Francs 115,534.41

Should be paid to the French Treasury, they assuming to pay Gladd's claim, and the other five outstanding claims, whenever they should be called for.

On this arrangement it is sufficient to remark, 1st.

Suspension of Payment of certain Bills.

That the Emperor arbitrarily, as far as it appears, since no grounds for the act are assigned, took away from Eric Gladd 81,124.02 francs, of which sum he put into the French Treasury 14,000 frs., and gave the other 67,124.02 to General Armstrong, to distribute among such claimants as he pleased. 2d. That Eric Gladd, for that portion of his claim which is left, and the other five claimants, for their claims, instead of receiving bills on the Treasury of the United States, as they were entitled by the Convention, are turned over to the French Treasury for payment. 3d. The whole sum received by General Armstrong, which was left free in his hands, has been given, as he himself states, to Joseph Russell, for the ship *Fame*; unless the sum which he has paid to John Holmes should prove not to be the claim of Maurice Giraud, for provisions, which was expressly named in Mr. Mollien's certificate stating this arrangement. This is supposed to be the same claim, because Mitchell's claim, which, like Giraud's, was particularly named in Mollien's certificate, was provided for by Mr. Armstrong; and, also, because Giraud's claim was founded on a contract with the *agent de subsistances de Paris, en l'an IV.* and Holmes's claim, made by Mr. Armstrong, was for provisions, as he himself states. The disposition, then, of the sum received by Mr. Armstrong, being 81,124.02 francs, was as follows:

To Mitchell, as provided by the arrangement with the Minister of the French Treasury, and the result of which was, to enable them to put the same sum into the French Treasury, without any legal right whatever	-	Francs, 14,000.00
To Holmes, as was also provided by the arrangement, provided his claim is the same as Maurice Giraud's, which is supposed to be the case,	-	5,124.02
To Joseph Russell	-	62,000.00
		<u>81,124.02</u>

The merits of the claim of Joseph Russell, above all others, are not shown any farther, than, as Mr. Armstrong states, that in making the division, "he was guided, altogether, by the nature of the several claims, their extent, and the degree to which they had been already satisfied."

The above ideas appear to offer objections sufficient to prevent the settlement of Mr. Armstrong's accounts at the present time. The grounds upon which the whole arrangement was made with Mr. Mollien, in February and March, 1809, respecting the sum of 196,658.43 francs, are not perceived to arise out of the convention; and it deserves consideration, whether the bills for 115,534.41 francs, drawn in the name of the Cashier General of the Public Treasury, should be paid when they are presented here.

May 22d, 1810.

MINISTRY OF THE PUBLIC TREASURY,
Bureau of Oppositions.

The Minister of the Public Treasury, charged with the execution of the convention of the 10

Floréal, year 11, certifies to General Armstrong, Minister Plenipotentiary of the United States, that the undermentioned items form a part of claims liquidated and verified, in conformity with the dispositions of the said convention, and of the decisions of His Imperial Majesty; and that they have been paid in orders upon the United States, since the 10th July, 1807, on which day a statement was transmitted to General Armstrong, of the sums previously paid.

[Here follow the names of sundry persons, and the amount of the claims allowed in their favor. The two last on the list are the following:]

20. The Cashier General of the Public Treasury, 115,534.41.

21. The 81,124.02 francs, left, by the decision of His Majesty, to the disposition of General Armstrong, under condition that Messrs. Mitchell and Maurice Giraud shall no longer have a right to make any claims upon the French Government; this sum, chargeable upon the twenty millions, and for which Mr. Armstrong has announced, by his despatch of the 10th March instant, that he has drawn, in favor of Mr. Warden, 81,124.02.

[Here follows a recapitulation of the sums which had been certified to Mr. Armstrong, and for which he had drawn bills, amounting, together, including the two above items, to twenty millions of francs. The certificate concludes as follows:]

Thus, the payment of the twenty millions, the object of the convention of the 10 Floréal, year 11, is entirely consummated, and this convention completely and definitively executed.

MOLLIEN.

PUBLIC TREASURY, March 14, 1809.

D.

WASHINGTON, 26th December, 1810.

DEAR SIR: I am much obliged by your communication of the 24th instant, and hasten to present a statement, which will, I hope, have the effect of clearing away the obstructions which have arisen to the final settlement of my accounts, under the convention of 1803. In this, the character of Gladd's claim, and that of Maurice Giraud, which had not before been noticed with sufficient distinctness, are shown to be, the one, a claim coming regularly under that provision of the convention which the French Government had a right to decide definitively; and the other, a claim on which nothing could be paid, since it had been rejected by both Boards, French and American. As to the more general objection, that the bills drawn to the order of the cashier of the Treasury did not specify the owners, and left the money to a disposition different from that contemplated by the convention, it may continue to have some force; in which case, these bills may be stopped at the Treasury, until the provisions of the convention be better satisfied. I am, &c.

J. ARMSTRONG.

Mr. GALLATIN.

Suspension of Payment of certain Bills.

On the — day of —, there remained of the Louisiana fund, the sum of 196,658.43 francs. Appropriations had been made of a part of this sum, by the functionaries of both Governments, conjointly, which were as follows, viz :

	Francs.
John Clark, - - - - -	2,768.32
Samuel Leighton, - - - - -	11,626.39
Tupper and Platt, - - - - -	3,132.01
— Perron, - - - - -	1,983.15
Nicholas Goix, - - - - -	900.52
A farther appropriation, by the French Council, had been made to Eric Gladd, of the sum of - - - - -	
	162,248.04

This last appropriation was rejected by the American commission, and the objections against it being sustained by me, the French Government was brought, after much discussion, to reduce it to one half of the sum originally allowed. This claim belonged (as I believed) to the French commercial house at Nantz, of Dobree and Sweighauser; Gladd was but the captain, bringing the supplies on which it was founded, and never did appear, personally, as the claimant. The necessary effect of this reduction, was to add to the residuary fund the sum of 81,124.02 francs. When this decision was taken, sundry other claims were pending under the convention: these were, that of John Mitchell; that of Joseph Russell; and that of Maurice Giraud. The first and last of these had been rejected by the French Council, on the ground that they were claims not embraced by the convention; and the last, (that of Giraud) was rejected by the functionaries of both Governments. These facts explain the nature of the conditions stated in the Emperor's decision, and, particularly, why (whatever may have been the wish of the French Government) I refused to give to the claim of Giraud any portion of the sum of 81,124.02 francs; this claim belonged to James Swan, who had already received two millions, and upwards, of the fund. To Mitchell, the fourteen thousand additional francs were given, because he proved, most satisfactorily, that the supplies, out of which his demand grew, were made by Anthony Butler, of Philadelphia, in his own right, and for his own benefit.

The bill to Holmes (which has been supposed to arise out of the claim of M. Giraud) had no connexion, whatever, with that claim, and was paid, in part, of a much larger one, made for provisions furnished at St. Domingo, and which passed one, or both, of the authorities recognised by the convention.

The bills to Russell were drawn to the amount of sixty-two thousand francs, for freight and demurrage of the ship Fame, the joint property of the said Russell and T. W. Francis, of Philadelphia, and on which nothing had been previously paid; of these, thirty-two thousand only have been delivered, for reasons formerly assigned in two letters, of different dates, to you. These circumstances do not present to me any deviation from the convention, or from the law made in consequence of it. When the Emperor put at

my disposition a moiety of the sum originally and wrongfully appropriated to Eric Gladd, it was distinctly understood, that this moiety should be applied to the extinction of claims then pending against the French Government, and, of course, could only apply to those above-mentioned. The quantum of allowance to each, was the only thing submitted, as I conceived, to my discretion; a circumstance which, by no means, takes these cases out of the ordinary rules of proceeding, as, in many others, my opinions were equally decisive, and, indeed, were necessarily so, since the American commission determined nothing with regard to quantum.

With regard to the other branch of the arrangement, it must also be remarked, that, on receiving my bills for the sum of 115,534.41 francs, the French Treasury took upon itself to pay the claims specified on the first page, and which had otherwise continued to embarrass and retard a final settlement of the business. Between, therefore, granting specific bills in discharge of these claims, and granting one or more to the French Treasury, which covered all and insured a final settlement, I cannot suppose that there is a sufficient legal distinction to prevent my particular account from being closed. Should this opinion, however, be erroneous, I must request that these bills, granted to the Cashier General, may be stopped at the Treasury, and held over until some other mode be adopted, which shall entirely satisfy the letter of the law.

P. S. The bill of twenty-five thousand francs, retained from the appropriation to Russell, shall be sent to the Treasury. If I do not mistake, this bill has on it an endorsement by D. B. Warden, of contemporary date with itself, showing why it was withheld.

John Armstrong, Minister of the United States at Paris, in relation to claims on France under the Louisiana Convention, of the 30th of April, 1803, in account current with the United States.

Dr.	
To Treasury warrants, for amount of sundry warrants issued from the 6th of July, 1805, to the 5th of February, 1810, inclusive, in payment of bills drawn by him for debts due to the citizens of the United States by the Government of France, as admitted by said Government, under the Louisiana Convention of the 30th of April, 1803; including those issued in discharge of certain embargo claims, referred for payment to the Treasury, per certificate of the Register herewith - - - - -	
	\$3,692,053 45
Profit and loss for this sum arising from fractions of cents, gained in calculation - - - - -	
	2 24
	<u>3,692,055 69</u>

Cr.
By amount of claims on the Government of France, admitted by said Government as due to the citizens of the United States, and which, pursuant to the provisions of the Louisiana Convention of the 30th of April, 1803, were payable by bills drawn by the said Minister on the Treasury of the United States,

Loan of Eleven Millions of Dollars.

including sundry *embargo* cases, as per lists certified by the Minister of the French Treasury, herewith, marked A No. 1, 2, and 3, Franks.
20,000,000 00

<i>Deduct—</i>	
Amount of claims for which bills have not yet been presented, per statement marked B	309,036 35
Also this sum, in drafts, to the order of D. B. Warden, held at the disposition of Gen. Armstrong, suspended for further explanation. (See statement marked C)	81,124 02
	390,160 37
	19,609,839 63
Equal, at 5½ francs per dollar, to	\$3,676,844 93
Balance due the United States	15,210 76
	3,992,055 69

The evidence on which the above credit is admitted, rests, principally, if not solely, on the lists of claims certified by the Minister of the French Treasury. This, on considering the terms of the convention, and the letter of the Secretary to Mr. Armstrong, dated September 4, 1809, is thought sufficient; and, indeed, is all that could probably be obtained, as the documents belonging to each case appear to remain in possession of the French Government.

N. B. The balance due the United States, as above, is the value of the francs, 81,124 02, drawn in favor of D. B. Warden, and which is suspended until the titles of the parties, to whom it is stated to have been paid over, are more satisfactorily explained and established.

AUDITOR'S OFFICE, *September 1, 1810.*

P. FERRALL.

COMPTROLLER'S OFFICE, *October 5, 1810,*
ANDREW ROSS.

LOAN OF ELEVEN MILLIONS OF DOLLARS.

[Communicated to the House, May 18, 1812.]

TREASURY DEPARTMENT, *May 14, 1812.*

SIR: Subscriptions were opened on the first and second instant, to the loan of eleven millions of dollars, authorized by the act of 14th March last, in conformity with the enclosed notice, A. It was left optional with the banks which were disposed to subscribe, either to receive stock or to loan the money by special contract. The enclosed circular letters, B, C, D, show the instructions transmitted, and the manner in which the proposals were made to the several banks. It was thought most eligible not to limit, in any place, the amount of subscriptions to any specific sum; for which reason, the loan was kept open only for two days, in order that the general result might be ascertained, and a reduction, if necessary, be made.

All the returns have now been received, and

an abstract, E, is herewith transmitted. From these it appears that \$6,118,900 were subscribed in those two days, viz: \$4,190,000 by banks, and \$1,928,900 by individuals. This last sum is greater than the aggregate of all the loans at six per cent. ever before obtained by this Government from individuals in the United States;* and, considering the price of stocks and various obstacles which at this time have impeded the subscriptions, the amount is as great as might have been expected within so short a period. The unsubscribed residue will now be apportioned among the several places, according to the apparent demand in each, and subscriptions will be received, or stock sold, until the sums thus respectively apportioned shall have been disposed of.

It is confidently believed that the amount which remains unsubscribed for will thus be filled as early as the money will be wanted for the public service. In order, however, to prevent the possibility of disappointment, and to remove doubts and erroneous expectations, I beg leave to submit the propriety of authorizing the issue of Treasury notes, on the following principles, viz:

1. Not to exceed, in the whole, the amount which may ultimately not be subscribed to the loan; that is to say, that the amount received on account of the loan, and that of the Treasury notes, shall not, together, exceed eleven millions; which limits, therefore, the greatest possible amount of the Treasury notes to less than four millions nine hundred thousand dollars.

2. To bear an interest of five and two-fifths per cent. a year, equal to one and a half cent per day on a one hundred dollar note.

3. To become payable by the Treasury one year after the date of their respective issues.

4. To be, in the meanwhile, receivable in payment of all duties, taxes, or debts, due to the United States. I have the honor to be, &c.

ALBERT GALLATIN.

HON. LANGDON CHEVES.

A.

Whereas, by an act of Congress, passed on the fourteenth day of March, in the year of our Lord one thousand eight hundred and twelve, the President of the United States is authorized to borrow, on the credit of the United States, a sum not exceeding eleven millions of dollars, at an interest not exceeding six per centum per annum,

* The only two six per cent loans obtained from individuals in the United States by this Government, are, 1st. On account of the loan of \$5,000,000, authorized by the act of 31st of May, 1796, one-half of which stock was advertised for sale for several weeks, without any offer being received, and of which, at last, only \$80,000 were sold at private sale. 2d. The Navy six per cent. loan, authorized by the act of June 30, 1798, which made the money subscribed applicable, on the spot, to a favorite object, and left the management and application of the funds in the hands of the subscribers. The amount of this stock issued, in the whole, was \$711,700.

Loan of Eleven Millions of Dollars.

payable quarter yearly, so, however, that no engagement or contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums, thus borrowed, at any time after the expiration of twelve years from the first day of January, one thousand eight hundred and thirteen: And, whereas, by the said act, so much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest and such part of the principal of said debt as the United States are now pledged annually to pay and reimburse, is pledged and appropriated for the payment of the interest, and for the reimbursement of the principal of the stock now to be created, and the faith of the United States is pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds now appropriated for paying the interest and principal as aforesaid: And, whereas, the President of the United States did, by an act or commission, under his hand, dated the thirtieth day of March, in the year one thousand eight hundred and twelve, authorize and empower the Secretary of the Treasury to borrow, on behalf of the United States, a sum not exceeding, in the whole, eleven millions of dollars, and to make the necessary contract for the same, pursuant to the act of Congress above recited:

Now, therefore, the undersigned Secretary of the Treasury, in pursuance of the act of Congress, and the authority from the President of the United States, above-mentioned, doth hereby, on behalf of the United States, contract and engage, in manner following, to wit:

1. Books for receiving subscriptions to a loan of eleven millions of dollars, for the use of the United States, shall be opened on the first day of May next—

At Portsmouth, New Hampshire, at the Union Bank.

At Salem, Massachusetts, at the Merchants' Bank.

At Boston, Massachusetts, at the State Bank, Union Bank, and Massachusetts Bank.

At Providence, Rhode Island, at the Roger Williams Bank.

At Hartford, Connecticut, at the Bank of Hartford.

At the city of New York, at the Manhattan Company and Mechanics' Bank.

At Philadelphia, at the Bank of Pennsylvania, and Farmers and Mechanics' Bank.

At Baltimore, at the Bank of Baltimore and Commercial and Farmers' Bank.

At the City of Washington, at the office of the Bank of Columbia.

At Richmond, Virginia, at the Bank of Virginia.

At Charleston, South Carolina, at the State Bank, and Planters and Mechanics' Bank.

Which books shall continue open for receiving subscriptions during the ordinary hours of trans-

acting business at the said banks, for two days. If more than eleven millions of dollars, in the whole, shall be subscribed, the surplus shall be deducted in proportion to the sums subscribed in each place, respectively, by a reduction of the subscriptions exceeding four thousand dollars.

2. For every hundred dollars which may be subscribed, there shall be paid, at the time of subscribing, the sum of twelve dollars and fifty cents, and a like sum of twelve dollars and fifty cents on the fifteenth day of each of the ensuing months of June, July, August, September, October, November, and December, one thousand eight hundred and twelve, respectively. Each subscriber, at the time of paying any of the above instalments, after the first, may pay all or any number of subsequent instalments, and will be entitled to receive interest, at the rate of six per centum per annum, on the amount thus paid from the time of actual payment.

3. On the failure of payment of any instalment of the sums subscribed according to the tenor of the second article, the next preceding instalment of twelve dollars and fifty cents, which shall have been paid for every hundred dollars subscribed, shall be forfeited to the United States.

4. If any subscriptions shall be reduced in consequence of a greater sum than eleven millions of dollars being subscribed, conformably to the first article, the amount of such reduction shall be forthwith returned to the subscribers from whom such reduction shall have been made.

5. Each subsequent instalment must be paid at the same bank at which original subscription was made, and where the first instalment was paid.

6. For such sums or number of shares of one hundred dollars, as may be subscribed, the Cashiers of the respective banks, within twenty days after the time of subscribing, shall give certificates, stating the sums subscribed and payment made, and on which the payments of the subsequent instalments, when made, shall be respectively endorsed; which certificates shall be assignable, by endorsement and delivery of the parties, in whose favor they may be issued, until the completion of the payments required by the tenor of the second article.

7. After the completion of the payments aforesaid, the proprietors of the certificates of the Cashiers, on which such payments have been completed, on surrendering the same at the Loan office of the State in which the subscription and payments shall have been made, shall be entitled to receive from the Commissioner of Loans, certificates of funded capital stock, bearing an interest of six per centum per annum, from the time when the said instalments shall have been paid, respectively, and payable quarter yearly, at the several Loan offices, or at the Treasury of the United States, where the same may stand credited; which certificates of funded capital stock shall be issued in the sums of one hundred, four hundred, one thousand, four thousand, or ten thousand dollars, at the option of the proprietor, and shall be transferable by the creditors, or their at-

Loan of Eleven Millions of Dollars.

torneys, duly constituted, at the Treasury and Loan offices, respectively, in the same manner as the present funded debt of the United States, and in pursuance of the rules which have been, or which may be, established, relative to the transfer of the said debt.

8. After the payment of the fifth instalment, such of the proprietors of the certificates of the Cashiers, of four hundred dollars and upwards, as may then be desirous of funding the same, may, on presenting them at the Loan office of the State in which the subscription and payments shall have been made, receive from the Commissioner of Loans, certificates of funded capital stock, of the description aforesaid, for the amount of the four first instalments, or one moiety of the sum expressed in the subscription certificates.

9. After the last day of December, in the year one thousand eight hundred and twenty-four, and after reasonable notice to the creditors, which shall be given by an advertisement in some public newspaper, printed at the seat of the Government of the United States, the said capital stock shall be redeemable at the pleasure of the United States, by the reimbursement of the whole sum which may, at that time, stand credited to any proprietor on the books of the Treasury, or of the Loan offices, respectively.

10. So much of the funds, constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be necessary for the regular payment of the interest, and for the reimbursement of the principal of the stock to be created under this contract, together with the faith of the United States for its due fulfilment, are hereby pledged, in pursuance of, and according to, the terms and conditions of the act of Congress hereinbefore recited.

Given under my hand, and the seal of the Treasury of the United States, at Washington, this thirty-first day of March, one thousand eight hundred and twelve.

ALBERT GALLATIN,
Secretary of the Treasury.

B.

TREASURY DEPARTMENT, April 7, 1812.

SIR: I take the liberty of enclosing to you — copies of the contract for raising, by loan, eleven millions of dollars, pursuant to an act of Congress, passed on the 14th day of March last. Presuming that your institution would be disposed to facilitate this operation, it has been named as one at which subscriptions to the loan would be received. I will thank you to apprise me immediately if, from any cause, it should be incompatible with your views to accede to this arrangement.

If the bank shall consent to receive the subscriptions in the manner proposed, it will be necessary, in the first place, that a book, in which the subscribers may enter their names, and the sums to be loaned by them, should be provided. This will consist of a book of sufficient magni-

tude to receive all the subscriptions likely to be made at your bank, to the first page of which one of the copies of the contract or terms of the loan, herewith transmitted, signed by the Secretary of the Treasury, and sealed with the Treasury seal, is to be affixed. The subscribers will write, in words at length, against their names, the amount which they intend to subscribe: And, on the same lines, respectively, the eighth part of that sum, being the first instalment, is, as soon as paid, to be entered by your Cashier, in figures, in a column left for that purpose, at the right-hand side of each page. This entry will, it is presumed, be a sufficient receipt to the subscriber, until the Cashier's certificate, or scrip, shall be issued to him, which, according to the sixth article of the terms of the loan, will be within twenty days after the time of subscribing. Yet, if the parties, or any of them, should, at the time of subscribing, require receipts from the Cashier, they may be given in his name, in any form you may prescribe, and to be returned when the above-mentioned certificates or scrip shall be delivered. The whole amount paid at the time of subscription, is to be credited to a distinct account, bearing that designation, and not to be carried to the credit of the Treasurer of the United States before the expiration of twenty days, as above stated. This period has been taken, in order to give time for all the cashiers of the banks, where the subscriptions are received, to return to the Treasury an account of the sums subscribed, that it may be thus ascertained whether more than eleven millions, in the whole, shall have been subscribed, and a reduction of the larger subscriptions shall consequently become necessary, as provided for in the first article of the terms of the loan.

Immediately after the subscription is closed, on the second day of May, the Cashier is to transmit to the Secretary of the Treasury an account—

1. Of the total amount subscribed.
2. Of the portion of that amount subscribed in sums exceeding four thousand dollars, each.
3. A list of all the subscriptions exceeding four thousand dollars, each.

As soon as these accounts from all the Cashiers of banks where subscriptions are received shall reach the Treasury, it will be ascertained whether any reductions of subscriptions will be necessary, and this will be immediately communicated to the Cashiers, who will then, in case of reduction, repay the excess to the subscribers, credit the Treasurer of the United States for the residue, and issue the subscription certificates, which, together with forms for their entry and registry, will, in the mean time, be transmitted from the Treasury.

As some of the banks may be disposed to become subscribers, provided the amount of their subscription be deposited with themselves until drawn for, for public purposes, you will be pleased, in case of any such subscription on the part of a bank in your State, and in good credit, to enter the same in a separate page of the subscription book, to consider the receipt of the Cashier of

Loan of Eleven Millions of Dollars.

such bank as sufficient evidence of the payment on account of the loan, and to enter the same accordingly in the book. I insert, at foot of this letter, the names of the banks in your State, which are known and considered at the Treasury as sufficient. To these, a circular letter, one of which you will also receive, will be written on that subject; and you may receive subscriptions, in like manner, from such others as, in your opinion, are perfectly responsible.

A reasonable allowance for the expenses of stationery and extra labor of the Cashiers of the banks, where subscriptions to the loan are received, will be made from the Treasury.

I have the honor to be, &c.

The Presidents of the Union Bank of New Hampshire; Union Bank of Boston; Massachusetts Bank; State Bank, Boston; Roger Williams Bank; Bank of Hartford; Manhattan Company; Mechanics' Bank, New York; Bank of Pennsylvania; Farmers and Mechanics' Bank, Philadelphia; Bank of Baltimore; Commercial and Farmers' Bank, Baltimore; Bank of Columbia; Bank of Washington; Bank of Virginia; State Bank, Charleston; Planters & Mechanics' Bank, Charleston; Merchants' Bank, Salem.

C.

TREASURY DEPARTMENT, *April 7, 1812.*

SIR: Having thought it probable that some of the banks might be disposed to subscribe to the loan of eleven millions of dollars, to be opened on the first day of May next, and that it would be an additional inducement to that measure if the sums to be paid on account of such subscription should be permitted to remain in deposit in the banks making the subscription, until wanted for the public service, I have taken this mode to notify the several banks that an arrangement of that kind will be allowed by the Treasury.

If, therefore, it shall suit the views of your institution to subscribe for any part of the loan, the subscription may be made at the bank or banks in your State, where subscriptions, by the terms of the enclosed contract, are to be received, and the amount of each instalment, as it becomes payable, may remain in your bank to the credit of the Treasurer of the United States, until drawn for on account of the public service. A receipt, or certificate of your Cashier, that the amount of each instalment, as it becomes payable, is placed in your bank to the credit of the Treasurer of the United States, has been directed to be accepted at the banks where subscriptions are received, as sufficient evidence of the payment.

If from the terms of your charter, or from any other cause, it should be deemed improper to subscribe to the loan, and receive stock therefor, and the bank should, nevertheless, be disposed to loan money to the United States, at a rate of interest not exceeding six per centum per annum, a special contract for the purpose may be formed. In this event, you will be pleased to communicate to the Secretary of the Treasury the amount proposed to be loaned; the time or times when the

whole, or its portions, will be advanced; and the period when reimbursement from the United States will be expected. The same privilege will be allowed in this case, as in case of subscription to the loan, of permitting the amount which may be engaged to be advanced by the bank, to remain in the bank in deposit, till drawn for by the Treasurer for the current service.

I have the honor to be, &c.

ALBERT GALLATIN.

To the Presidents of the Bank of New Hampshire, Boston Bank, Maine Bank, Portland Bank, Saco Bank, Bank of Newburyport, Salem Bank, Bank of Essex, Bank of Providence, Bank of Rhode Island, Bank of Bristol, Newport Bank, Bank of New London, Bank of Middletown, Bank of New Haven, Union Bank of New York, Bank of New York, Merchants' Bank of New York, State Bank at Albany, Philadelphia Bank, Bank of North America, Bank of Maryland, Union Bank of Maryland, Mechanics' Bank of Baltimore, Farmers and Mechanics' Bank of Baltimore, Franklin Bank of Baltimore, Marine Bank of Baltimore, Farmers' Bank of Maryland, Union Bank of Georgetown, Potomac Bank, Farmers' Bank of Alexandria, Bank of Alexandria.

D.

TREASURY DEPARTMENT, *May 11, 1812.*

SIR: To my letter of the 7th instant, I beg leave to add, that, if it should suit the views of your institution to loan any sum of money to the United States, at a rate not exceeding six per centum per annum—without, however, subscribing to the proposed loan, and receiving stock therefor—a special contract for the purpose may be formed. In this event, you will be pleased to communicate to the Secretary of the Treasury the amount proposed to be loaned; the time or times when the whole, or its portions, will be advanced; and the period when reimbursement from the United States will be expected.

I also request, that, in the event of your institution subscribing to the proposed loan, you would inform me whether it would be your wish, in case of reduction, that that on your subscription should be made on the same principles as on all others, or whether you will leave it discretionary with me to reduce it to a less sum than your proportional share. My reason for this last inquiry is, that, in the event of a larger sum being subscribed, altogether, than eleven millions, it would be desirable to receive the whole amount from individuals, and to reserve, for some subsequent emergency, the resource of such loans as may be obtained from the several banks. I am, very respectfully, &c.

To the Presidents of the Union Bank of New Hampshire, Union Bank of Boston, Massachusetts Bank, State Bank at Boston, Roger Williams' Bank, Hartford Bank, Manhattan Company, Mechanics' Bank of New York, Bank of Pennsylvania, Farmers and Mechanics' Bank, Bank of Baltimore, Commercial and Farmers' Bank, Bank of Virginia, State Bank at Charleston, Planters and Mechanics' Bank, Bank of Columbia, Bank of Washington, Merchants' Bank of Salem.

Evasions of the Non-Importation Act.

E.

Statement of the amount obtained on the 1st and 2d of May, 1812, on account of the Loan of Eleven Millions of Dollars.

Where located.	Banks.	Amt. sub- scribed.	From banks.	From indivi- duals.	Total.
Portsmouth, N. H.	- - - - -	-	-	\$11,500	\$11,500
Salem, Mass.	- Merchants' Bank† - - -	\$20,000	\$20,000	102,900	122,900
Boston	- State Bank* - - - - -	500,000	500,000	263,000	763,000
Providence, R. I.	- Bristol Bank† - - - - -	\$50,000	80,000	14,200	94,200
Do.	- Roger Williams' Bank - - -	20,000			
Do.	- Newport Bank - - - - -	10,000			
Hartford, Conn.	- - - - -	-	1,260,000	165,400	1,425,400
New York	- Manhattan Bank† - - - -	\$600,000			
Do.	- Mechanics' Bank* - - - -	600,000			
Do.	- State Bank, Albany†* - - -	60,000	1,045,000	525,800	1,570,000
Philadelphia	- Bank of Pennsylvania† - - -	\$500,000			
Do.	- Farmers' and Mechanics' Bank -	300,000			
Do.	- Philadelphia Bank† - - - -	100,000			
Do.	- Bank of North America† - - -	100,000			
Do.	- Trenton, (N. J.) Bank† - - -	20,000			
Do.	- Newbern, (N. C.) Bank† - - -	25,000			
Baltimore	- Bank of Baltimore - - - - -	\$50,000	210,000	611,800	821,800
Do.	- Union Bank of Maryland† - - -	50,000			
Do.	- Farmers and Merchants' Bank†	20,000			
Do.	- Mechanics' Bank† - - - - -	20,000			
Do.	- Franklin Bank† - - - - -	20,000			
Do.	- Commercial and Farmers' Bank	20,000			
Do.	- Marine Bank† - - - - -	20,000			
Do.	- Bank of Maryland - - - - -	10,000			
Washington	- Bank of Columbia - - - - -	\$200,000	525,000	73,600	598,600
Do.	- Bank of Alexandria - - - - -	100,000			
Do.	- Farmers' Bank of Alexandria†*	100,000			
Do.	- Union Bank of Georgetown† -	75,000			
Do.	- Bank of Washington - - - - -	50,000			
Richmond	- Bank of Virginia - - - - -	\$200,000	350,000	75,400	425,400
Charleston	- Planters and Mechanics' Bank -	\$200,000			
Do.	- State Bank* - - - - -	150,000			
			\$4,190,000	\$1,928,900	\$6,118,900

* On special contract.

† Stock or special contract, at the option of the Government. All the other banks receive stock.

‡ These banks are not usual places of deposits for public moneys. All the banks with which public deposits are made, subscribed; those of Massachusetts, Union, (Boston,) Saco, and Maine, excepted.

EVASIONS OF THE NON-IMPORTATION ACT.

[Communicated to the House, 2d of December, 1811.]

TREASURY DEPARTMENT, Nov. 26, 1811.

SIR: The evasions of the non-importation act appear to have principally arisen from three quarters.

1. Vessels have arrived from ports not belonging to Great Britain, with merchandise of British growth or manufacture, which has been entered as being of the growth or manufacture of other

countries. This is believed to have been by far the most fruitful source of evasions, and appears to have been, as yet, confined to vessels coming with colonial produce from St. Bartholomew and Spanish ports.

2. Coasting vessels, chiefly from the Northern ports, have brought large quantities of plaster of paris, commonly taken on board in the waters of Passamaquoddy bay; and it is suggested that they have also occasionally received there, or from vessels at sea, other species of British merchandise.

Evasions of the Non-Importation Act.

3. Merchandise has been illegally imported by land from Canada, and, as it is believed, principally through the State of Vermont.

The official and direct information received on that subject is not very extensive. Verbal or private communications have been made to me, more in the shape of suggestions than founded on a positive knowledge of the facts. Still, that evasions have taken place, in the manner above stated, is sufficiently established. But I am induced to believe, that, with the exception of rum brought in from St. Barthelomew, and of plaster of paris from New Brunswick, the amount of merchandise actually smuggled is not very considerable. Exclusively of special instructions applicable to particular cases, and of the employment of cutters, boats, and men, the general measures adopted for checking and preventing those illegal attempts were incorporated, and will be found in the two enclosed circulars. But some further provisions appear necessary, and I beg leave to submit the following suggestions:

I. With respect to the importation of British articles, under color of their being the produce of other countries, two efficient modes may be adopted: 1, To admit no such articles, after a certain date, unless accompanied with a certificate of origin from the American Consul, or commercial agent, at the port of exportation. 2, To direct a summary mode, by sworn examiners, to decide, at the time of arrival, on the origin of the article, which decision shall be admitted as conclusive evidence in case of trial.

II. In relation to coasting vessels, it is proposed, 1, That they should be obliged to enter and clear, though ostensibly bound to another port in the same or an adjacent State, making only the proper exceptions in favor of packets, and of vessels employed solely within the same river or bay. 2, That the collectors should be authorized and directed to inspect all articles of foreign growth or manufacture, transported coastwise, both when put on board and before the same are again landed.

III. The situation of Passamaquoddy seems to require some special provisions, such as to forbid altogether the importation of any foreign article from that port into any other port of the United States, and not to suffer any vessels to go there without special permission from the President. Similar provisions may also be useful with respect to St. Mary's, in Georgia.

IV. It is believed that the prevention of smuggling from Canada depends more on the vigilance and activity of the collectors, and persons employed by them, than on any additional legal provision. It seems, however, necessary to extend generally to inspectors the power of searching houses, which, by the collection law, is given only to the collectors, or persons acting under a special appointment for each case. It has also been suggested that a permission to import salt from Canada would, in other respects, facilitate the execution of the law.

V. It is not known that vessels, laden with salt, and coming from Lisbon and other places, have

brought any forbidden articles; but the facility of concealment, the article being now duty free, and neither measured nor examined, is obvious; and it suggests the propriety of directing that salt should be measured, or weighed, as if liable to duty.

There are some other improvements, of a more general and permanent nature, to which the attention of this Department has been more forcibly called by the restrictive laws, and which I will also beg leave to suggest.

The superintendency of the Treasury over the collectors, for the purpose of producing uniformity in every respect, and of obtaining early information of delinquencies, unfaithfulness, or neglect, would be much more prompt and efficient with the aid of some officers, who should, once or twice in a year, visit all the custom-houses, examine the books, the manner of ascertaining duties, and generally the conduct of the collectors, and report to the Treasury. I believe four such officers would be sufficient, and that, exclusively of other advantages, the delinquencies they would prevent would more than pay their compensation. The importance of promptly ascertaining the want of vigilance of a single collector, is at this time obvious.

The mode of appraising merchandise seized by collectors, and restored by order of a court, requires revision. It is defined only in cases arising under the collection law, and in all others is left to the discretion of each separate district court. In all cases, it seems necessary and just that the invoices should be produced and the true value ascertained in the same manner as is provided for ascertaining duties; that the duties should, in every instance, be secured; and that the security given for the value appraised should be indisputable, and approved by the collector or district attorney.

Another evil of great magnitude arises from the want of a sufficient remedy in the case of inability of the district judge to perform the duties of the office. The only provision in force is a transfer of suits to the circuit court, which, in States where that court is already overburdened with business, is altogether inefficient. The enclosed letter, marked D, will show the extent of the inconvenience in one of the districts.

The Northern frontier of the United States, from Lake Champlain to Lake Erie, includes seven districts, viz: Champlain, Oswegatchie, Sackett's Harbor, Oswego, Genesee, Niagara, and Buffalo creek, all in the State of New York. The distance from the city of New York, where alone the district court is held, and that court having more other business than any other in the United States, is one of the greatest obstacles to the execution of the revenue laws. In fact, a district court is, in that respect, as necessary on that frontier as on the Atlantic coast.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. THOMAS NEWTON,
Chairman Com. Manufactures.

Modification of the Non-Importation Act.

NON-IMPORTATION ACT MODIFIED.

[Communicated to the House, June 19 and 23, 1812.]

COMMITTEE ROOM, *June 9, 1812.*

SIR: I am directed by the Committee of Ways and Means to request you to inform them whether, in your opinion, the non-importation act may not be so modified or partially suspended, as to afford a revenue equivalent to the estimated amount of the proposed internal taxes, additional tonnage duty, and diminution of drawbacks; and, in such event, whether the last-mentioned objects of revenue may not for the present be dispensed with.

I am, sir, with great respect your obedient servant,
LANGDON CHEVES.

Hon. A. GALLATIN, *Sec'y of the Treasury.*

TREASURY DEPARTMENT, *June 10, 1812.*

SIR: I had the honor to receive your letter of yesterday, asking whether, in my opinion, the non-importation act may not be so modified or partially suspended as to afford a revenue equivalent to the estimated amount of the internal taxes, additional tonnage duty, and diminution of drawbacks; and, in such event, whether the last-mentioned objects of revenue may not for the present be dispensed with?

All the estimates of revenue which have been transmitted during this session, having necessarily been made in conformity to the existing laws, were predicated on the supposed absolute prohibition of British produce and manufactures. These, in ordinary times, amounted to more than one-half of the foreign merchandise consumed in the United States. The actual exclusion of the greater part of the articles of our own growth from France, Holland, and Germany, the consequent nullity of our commerce with those countries, and the conquest by Great Britain of their colonies, still more lessens the proportion of foreign articles which may be imported from other countries than the British dominions.

It is therefore evident, that the amount of duties on importations will be more than doubled in the event of a suspension of the non-importation, and that they will, while that suspension continues, afford a revenue at least equivalent to the estimated amount of the proposed direct tax, internal duties, additional tonnage duty, and diminution of drawbacks. All these may be dispensed with, so long as the suspension continues, provided that the contemplated increase of one hundred per cent. on the duties on importation shall take place.

It is not believed that the result would be materially affected by a modification or partial instead of an absolute suspension of the non-importation: for the amount of importations would be principally regulated by the amount of American funds already in England, and by the subsequent consumption of American produce in Great Britain, Spain, and Portugal, and the British West Indies, respectively. If a discrimination be thought eligible, it would seem that the articles entitled to preference are colonial produce, particularly rum

coarse woollens, middle price cotton goods, Irish linens, earthen and glass ware, hardware, and manufactures of steel, tin, brass, and copper. Fine muslins, plain cotton goods, manufactures of silk, hemp, flax, (with the above exception,) and leather, paper, hats, shoes and millinery, may either be altogether supplied by domestic manufactures or dispensed with.

The annual importations of British colonial and domestic produce and manufactures could not be estimated at less than thirty-five millions. Supposing (on the same grounds on which the other estimates of duties on importation in time of war were made) that the war and other restrictions should reduce the amount to one half, the proposed double duties collected on the residue would produce a net revenue of at least five millions, and greater, therefore, than all the proposed internal taxes and duties, and additional tonnage duty.

Permit me, however, to observe, with respect to this last duty, that, so far as relates to foreign vessels, the proposed addition appears necessary, and is hardly sufficient to compensate the great advantages which war will give them over American vessels, in the American commerce.

It is proper to add, that all the bills for laying and collecting the direct tax and internal duties have been prepared in conformity with the former request of the committee, so that the whole subject may be taken up at this or any other time, without any delay on the part of the Treasury. The only detail on which the information is not as complete as might be desired, is that of the quotas of the direct tax intended to be laid on the several counties in each State. It is also believed that the system has been prepared in such manner, that it may be organized and all the taxes be in full operation in the month of April next, provided that the laws are enacted before the commencement of the year 1813.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

HON. LANGDON CHEVES, *Chairman*
of the Committee of Ways and Means.

JUNE 23, 1812.

SIR: The non-importation acts forbid two things, viz: 1st. The importation of British merchandise: 2d. The importation of any merchandise whatever, from the dominions of Great Britain. The bill reported to the House suspends the operation of the first prohibition, but not of the second. This is intended, it is presumed, to prevent direct importations from Great Britain in neutral vessels. That regulation will, it is believed, have no other effect but to enhance the freight, and thereby make us pay dearer for the merchandise. But, supposing that exception to be generally proper, its application to the adjacent British provinces will be injurious. It is our interest now to draw from Canada all the furs and merchandise belonging to our citizens. Their exportation may be forbidden by the British, but, if

Militia of the United States.

permitted by them, their importation into the United States will continue to be forbidden. If this be not intended, the bill should be amended by inserting, in the first section, after the words "Great Britain," the words "or of goods, wares, and merchandise, from the British provinces adjacent to the United States," or words to that effect. Or a third section, specially providing for the case, may be introduced. It seems to me that, even if the bill were rejected, that provision is due to our citizens, who should be permitted, if they can, to snatch their property from the enemy's hands. That property, in England runs no great risk; but, in a Colonial Government, may be seized by the mere act of the Governor. Smuggling, also, is much more dangerous from that quarter than by sea.

The title of the bill does not agree with the enacting clause.

Respectfully, your obedient servant,
ALBERT GALLATIN.
 HON. LANGDON CHEVES.

THE MILITIA.

[Communicated to the House, March 6, 1812.]

Resolved by the General Assembly of the State of Kentucky, That, whereas the subject of our national militia, at all times important, seems, from the aspect of our foreign relations, to be peculiarly so at the present time; and experience having shown that the present system has great defects, producing much inconvenience without many of those benefits which a better arrangement would insure; and the Legislature of this State being impressed with a belief that an adequate remedy for the evil rests in the hands of the General Government alone, which has a Constitutional power to provide for the organization, arming, and disciplining our national force; this Legislature, in behalf of their constituents, with every deference to the wisdom of those whose power and duty it is to act finally on the subject, will proceed to suggest their ideas on some of the inconveniences which attend the present militia system, together with the mode in which they might be obviated, with a view of their being submitted to the competent authority.

1. Although a well-organized militia is the greatest safeguard of a free people, because the soldiers being the citizens, their military interest is to secure their civil rights; yet the safeguard can only be available, in proportion to the capacity of the militia to act with effect.

2. This capacity seems to be composed of numbers, organization, discipline, and arms; which latter may include camp equipage and the necessary munitions of war.

3. Number is but one ingredient of military capacity, because a small number, well armed and disciplined, will defeat a larger one, which is inferior in these two respects.

4. Organization seems to be the mean by which any given number of troops may be disposed of,

so as to act; and the more perfect this is, with so much more facility can that number be brought into action, to the extent of its force, upon any emergency.

5. The extent of the force of a given number of troops, when brought into action, will be, in the general, in proportion to its discipline and armature; these two, therefore, seem to compose the hand that is to execute; and the more perfect they are when in action, in that proportion will the force of any given number of men be greater; and, as it is seen that the perfection of this force, the reverse of that of a standing army, turns to the advantage of the State against her enemies, without threatening the rights of her citizens; the object, then, which highly interests every portion of the Union, seems evidently to be so to organize the national force, that it can be used with the greatest facility and effect, for legitimate purposes, while the soldier shall be still so far a citizen, as to have an interest in respecting the rights of the latter, which are, in fact, his own; so as never to cause an abuse or diversion of that force from its true end.

If, therefore, every individual in the United States, capable of bearing arms, were to be so organized, disciplined, armed, and accoutred, as to act when required, it would certainly present the spectacle of a perfect militia of the whole, which no age or country ever witnessed, and, most probably, in a country or government like ours, never will be seen. And, if a general draught were to be made—and we ought to calculate on the effect of this—to be equal, it must be impartial; and how many who would have neither arms, accoutrements, nor discipline, would be thus designated?—men who might be useful at home, but who would scarcely find employment for our enemies, even if armed, and whose rout and slaughter would only serve to mark our calamity, and spread dismay among our friends; and experience has proved that substitutes are seldom worth anything. But does not the circumstance of a general draught show forcibly the defect of our militia organization? How much time is lost in mustering all the militia in the United States? How much will it require to hunt up arms, and to get those of a proper description? The latter, we much suspect, could not be easily procured. Thus it has happened, as it is thence to be inferred, will again happen, that the season for action has passed away in preparation, giving, in many cases, advantages to the enemy, not easily regained.

6. But it is seen from experience that habits of discipline are most effectually acquired in youth. The youth, too, of every country, seem to be, from their vigor, and alertness, best calculated for military service; their very ardor, itself, seems to be the guarantee of successful enterprise; and certainly they can be spared for this service, with much less inconvenience to the avocations of civil life, than the heads of families; and these pursuits must still be attended to, or the very sinews of war will be dried up or broken.

7. The remedy, therefore, which this Legisla-

Quotas of Militia—Military Force in June, 1812.

ture would beg leave to submit for the consideration of Congress, is, to class the militia between certain ages, and without intending the slightest disrespect to the wisdom of that honorable body, they would, by way of example, submit, that the militia might be divided into three classes: The first, to be composed of all capable of bearing arms, and not exempted by law, between fifteen and twenty-one years of age; the second, between twenty-one and twenty-seven years of age; the third between twenty-seven and forty-five years of age. The principal object of the first class would be to acquire a knowledge of tactics and discipline; of the second, which might be denominated the effective one, to be completely armed and equipped to march whenever required; of the third, to form a reserve, and which need not be compelled to attend musters, unless when they were called upon to render actual service.

It is not deemed proper to enter into a detail of measures for keeping the middle or effective class properly armed and equipped; that it should be so, is evident.

The progress of all capable of bearing arms, through the several classes, would promise a greater perfection in discipline, than can be effected under the present plan; all would, in fact, have passed through a school, in which it would have been taught, and, perhaps, more than a million of dollars be annually saved to the community in the labor of those excused from uselessly attending musters. But the greatest advantage which would result from it, would be the keeping an effective, disposable, and competent military force, at all times ready for service, without the danger and inconvenience resulting from a standing army. These ideas are submitted merely with the view that the attention of the National Legislature should be called to the subject, and it appears that none can be of higher moment.

Resolved, That copies of these resolutions be transmitted, one to the President of the United States, and one to each of our Senators and Representatives in Congress, for the purpose of being submitted to that body.

QUOTAS OF MILITIA.

[Communicated to the Senate, June 1, 1812.]

WAR DEPARTMENT, May 28, 1812.

In obedience to a resolution of the honorable the Senate of the United States, of the 27th inst., directing a report of "the number of men ordered to be supplied by each State for the purpose of completing their respective quotas under the act of the present session, entitled 'An act to authorize a detachment of the militia of the United States,'" the Secretary of War has the honor herewith to transmit a schedule showing the number of men required from each State, by virtue of the act before mentioned.

Which is respectfully submitted.

WILLIAM EUSTIS.

PRESIDENT of the Senate, &c.

Schedule of the apportionment of 100,000 Militia, required by virtue of the act of Congress of the 10th of April, 1812, entitled "An act to authorize a detachment from the Militia of the United States."

New Hampshire	-	-	-	-	-	3,500
Massachusetts	-	-	-	-	-	10,000
Connecticut	-	-	-	-	-	3,000
Rhode Island	-	-	-	-	-	500
Vermont	-	-	-	-	-	3,000
New York	-	-	-	-	-	13,500
New Jersey	-	-	-	-	-	5,000
Pennsylvania	-	-	-	-	-	14,000
Delaware	-	-	-	-	-	1,000
Maryland	-	-	-	-	-	6,000
Virginia	-	-	-	-	-	12,000
North Carolina	-	-	-	-	-	7,000
South Carolina	-	-	-	-	-	5,000
Georgia	-	-	-	-	-	3,500
Kentucky	-	-	-	-	-	5,500
Ohio	-	-	-	-	-	5,500
Tennessee	-	-	-	-	-	2,500
						100,000

MILITARY FORCE IN JUNE, 1812.

[Communicated to the Senate, June 9, 1812.]

WAR DEPARTMENT, June 6, 1812.

SIR: By the consent of the President, I have the honor herewith to enclose, in the same confidence in which the information was required, statements from the proper officers, which, it is presumed, will answer satisfactorily the inquiries contained in your letter of the fifth instant, relative to the present state of the army.

The regular troops reported at several of the most important maritime posts receive continual reinforcements from the recruits, and in calculating the force for this defence, the aid of the militia of the vicinity is relied on in cases of emergency. Sixteen hundred militia have already marched for the defence of the northern frontier of the State of New York, and six companies of militia artillery have been detached for the works in the city and harbor of New York. Twelve hundred volunteers and militia have marched for Detroit; two companies have been ordered to Sandusky; and the six companies of rangers, authorized by law, to the frontiers of Ohio, Indiana, Illinois, and Louisiana. The Governors of other States have been directed to furnish detachments of militia, on the requisitions of the Generals charged with the defence of the maritime frontier.

When the extent of country, the disadvantages under which the recruiting service was commenced, and the uncertainty which has prevailed in the public mind relative to the ulterior measures which would be adopted, are considered, the success which has attended this service will be found to have equalled any reasonable expectations.

Military Force in June, 1812.

I have the honor to be, very respectfully, sir,
your obedient servant,

W. EUSTIS.

Hon. JOSEPH ANDERSON, *Chairman.*

INSPECTOR GEN'S OFFICE, *June 5, 1812.*

SIR: You have been pleased to address to this office the following inquiries:

1. What is the amount of the force raised under the act, entitled "An act to raise an additional military force?"

2. Are the troops newly raised sufficiently equipped and disciplined to fit them for immediate service?

With relation to the first inquiry, I would state, that by the recruiting instructions which issued from this office on the 28th of March last, it was directed that "the commanding officers of recruiting districts shall monthly make returns to the commanding officer of the department, who will make monthly returns to the Department of War."

No returns were made for the month of April, from any of the recruiting departments, except No. 5, including the States of New York and Connecticut; and the return from that department only exhibited the number of recruits in three of the six recruiting districts which it contains.

No return has yet been received from any of the recruiting departments for the month of May.

Some imperfect reports and estimates of the number of recruits, dated on various days in the month of May, have been received from nine of the forty-eight districts into which the United States and their territories were divided; but the information they contain is not sufficient whereon to found a probable conjecture of the whole amount of the force raised under the act aforesaid.

To your second inquiry I cannot directly reply, not having inspected the troops newly raised. Orders have issued for delivering arms to a part of them; and, by communications received at this office, it appears that seven thousand three hundred and ninety-seven suits of clothing, deficient in some articles, were issued at Philadelphia, and forwarded, during the months of April and May, for the recruits of the additional army.

I have the honor to be, very respectfully, your most obedient,

A. SMYTH,

Acting Inspector General.

Hon. WILLIAM EUSTIS.

Return of the number of Troops in service on the Peace Establishment, and Additional Military Force of 1808; number on the Southern and Western frontier, and where stationed; number at Detroit, and on the march to that place; number in the harbor of Charleston, South Carolina; number in the harbors of New York, Rhode Island, and Boston, and the number at Fort Mifflin; also, the number required for the defence of the harbor of New York:

Number of troops in service on the Peace Establishment, and additional military force of 1808, including recruits - - - - 6,744

Point Petre, St. Mary's river, Georgia	-	194
Fort Hawkins, Georgia	-	73
Fort Stoddart, Mississippi Territory	-	469
Fort St. Philip	-	72
New Orleans and Fort St. John	-	143
Pass Christian and Baton Rouge	-	1,244
Natchitoches	-	89
Fort Hampton and Highwassee	-	169
Fort Massac	-	36
Belle Fontaine	-	134
Fort Osage	-	63
Fort Madison	-	44
Vincennes and vicinity	-	117
Michillimackinac	-	88
Fort Dearborn	-	53
Fort Wayne	-	85
Detroit	-	119
On the march to Detroit	-	430
Harbor of Charleston, South Carolina	-	175
Harbor of New York	-	901
Harbor of Newport, Rhode Island	-	193
Boston Harbor	-	131
Fort Mifflin	-	65

It is computed that three thousand men are sufficient to man the works in the city and harbor of New York, exclusive of the works at the Narrows, and of the cannon on travelling carriages; and that seven hundred and fifty men are sufficient for the works in the harbor of Newport, Rhode Island.

The returns of recruits for May, with one or two exceptions, have not been received. The increase may be estimated at one thousand men.

From the first of January to the 30th of April, 1812, have been enlisted eleven hundred and twenty-five recruits.

A. Y. NICOLL,
Adjutant and Inspector.

INSPECTOR'S OFFICE, *June 6, 1812.*

SENATE CHAMBER, *June 8, 1812.*

SIR: The committee of the Senate, to whom was referred the confidential Message of the President, have directed me to ask of you an explanation of the detailed report received from your office, signed by Mr. Nicoll, Adjutant and Inspector.

The return states the whole number of troops in service on the Peace Establishment, and additional military force of 1808, to be 6,744; the specification amounting to 5,087. It is desirable to know where the different number of 1,657 are stationed, and whether the 1,125 recruits, referred to as having been enlisted to April 30th, and the recruits since April, supposed to amount to 1,000 men, are both, or either, included in the aggregate first mentioned of 6,744 men; and whether the 1,000 men, supposed to be enlisted in the month of May, are exclusively for the Peace Establishment and additional military force of 1808. It would also be desirable to know, as far as you are able to form an opinion, from any probable data you are in possession of, or informal information, the number of recruits which you may have reason to suppose are at this time enlisted for the additional military force of twenty-five thousand.

Battle with the Indians on the Wabash.

WAR DEPARTMENT, June 8, 1812.

SIR: On considering again your letter of this morning, which was answered in haste, I perceive a desire on the part of the honorable committee, that an opinion should be expressed of the number of recruits raised under the late act providing an additional military force; and although there are no official data on which to ground a correct opinion of their numbers, I have no hesitancy in giving an inofficial opinion, that they may be safely estimated at five thousand.

With great respect, I have the honor to be, sir, your obedient servant, W. EUSTIS.

HON. JOSEPH ANDERSON.

WAR OFFICE, June 9, 1812.

SIR: Letters received from Generals Dearborn and Bloomfield, by the mail of yesterday, confirm the opinion given of the number of recruits raised at this time. General Bloomfield, from the numbers which have already joined him, has considered it unnecessary to call into actual service the companies of militia artillery, which have been detached, and are in readiness to repair to the batteries in New York. General Dearborn reports the recruiting service as going on very well, and speaks of completing his corps much sooner than was expected.

With great respect, your obedient servant, W. EUSTIS.

HON. JOSEPH ANDERSON.

BATTLE ON THE WABASH.

[Communicated to the House, December 18, 1811.]

To the Senate and House of Representatives of the United States:

I lay before Congress two letters received from Governor Harrison of the Indiana Territory, reporting the particulars and the issue of the expedition under his command, of which notice was taken in my communication of November 5.

While it is deeply lamented that so many valuable lives have been lost in the action which took place on the 7th ult., Congress will see with satisfaction the dauntless spirit and fortitude victoriously displayed by every description of the troops engaged, as well as the collected firmness which distinguished their commander on an occasion requiring the utmost exertions of valor and discipline.

It may be reasonably expected that the good effects of this critical defeat and dispersion of a combination of savages, which appears to have been spreading to a greater extent, will be experienced not only in a cessation of the murders and depredations committed on our frontier, but in the prevention of any hostile incursions otherwise to have been apprehended.

The families of those brave and patriotic citizens who have fallen in this severe conflict, will doubtless engage the favorable attention of Congress.

JAMES MADISON.

DECEMBER 18, 1811.

12th CON. 1st SESS.—67

VINCENNES, Nov. 18, 1811.

SIR: In my letter of the 8th instant, I did myself the honor to communicate the result of an action, between the troops under my command and the confederation of Indians under the control of the Shawanee Prophet. I had previously informed you, in a letter of the 2d instant, of my proceedings previously to my arrival at the Vermillion river, where I had erected a block-house for the protection of the boats which I was obliged to leave, and as a depository for our heavy baggage and such part of our provisions as we were unable to transport in wagons. On the morning of the 3d instant, I commenced my march from the block-house. The Wabash above this turning considerably to the eastward, I was obliged, in order to avoid the broken and woody country which borders upon it, to change my course to the westward of north, to gain the prairies which lie to the back of those woods. At the end of one day's march, I was enabled to take a proper direction, (northeast,) which brought me on the evening of the 5th to a small creek, at about eleven miles from the Prophet's town. I had on the preceding day avoided the dangerous pass of Pine creek, by inclining a few miles to the left, where the troops and wagons were crossed with expedition and safety. Our route on the 6th for about six miles, lay through prairies separated by small points of woods.

My order of march hitherto had been similar to that used by General Wayne; that is, the infantry were in two columns or files on either side of the road, and the mounted riflemen and cavalry in front, in the rear, and on the flanks. Where the ground was unfavorable for the action of cavalry they were placed in the rear, but where it was otherwise they were made to exchange positions with one of the mounted rifle corps. Understanding that the last four miles were open woods, and the probability being greater that we should be attacked in front than on either flank, I halted at that distance from the town, and formed the army in order of battle. The United States infantry placed in the centre, two companies of militia infantry, and one of mounted riflemen on each flank, formed the front line. In the rear of this line was placed the baggage, drawn up as compactly as possible, and immediately behind it a reserve of three companies of militia infantry. The cavalry formed a second line at the distance of three hundred yards in the rear of the front line, and a company of mounted riflemen the advanced guard at that distance in front. To facilitate the march, the whole were then broken off in short columns of companies, a situation the most favorable for forming in order of battle with facility and precision. Our march was slow and cautious, and much delayed by the examination of every place which seemed calculated for an ambuscade. Indeed, the ground was for some time so unfavorable that I was obliged to change the position of the several corps, three times in the distance of a mile. At half past 2 o'clock we passed a small creek, at the distance of one mile and a half from the town, and entered an open

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wood, when the army was halted and again drawn up in order of battle. During the whole of the last day's march, parties of Indians were constantly about us, and every effort was made by the interpreters to speak to them, but in vain—new attempts of the kind were now made, but proving equally ineffectual, Captain Dubois, of the spies and guides, offering to go with a flag to the town, I despatched him with an interpreter to request a conference with the Prophet. In a few moments a message was sent by Captain Dubois to inform me that in his attempts to advance, the Indians appeared on both his flanks, and although he had spoken to them in the most friendly manner they refused to answer, but beckoned to him to go forward and constantly endeavored to cut him off from the army. Upon this information I recalled the Captain, and determined to encamp for the night and take some other measures for opening a conference with the Prophet. Whilst I was engaged in tracing the lines for the encampment, Major Daviess, who commanded the dragoons, came to inform me that he had penetrated to the Indian fields; that the ground was entirely open and favorable; that the Indians in front had manifested nothing but hostility and had answered every attempt to bring them to a parley with contempt and insolence. I was immediately advised by all the officers around me to move forward. A similar wish indeed pervaded all the army—it was drawn up in excellent order, and every man appeared eager to decide the contest immediately. Being informed that a good encampment might be had upon the Wabash, I yielded to what appeared the general wish, and directed the troops to advance, taking care however to place the interpreters in front, with directions to invite a conference with any Indians they might meet with.

We had not advanced above four hundred yards, when I was informed that three Indians had approached the advanced guard, and had expressed a wish to speak to me. I found upon their arrival that one of them was a man in great estimation with the Prophet. He informed me that the chiefs were much surprised at my advancing upon them so rapidly—that they were given to understand by the Delawares and Miamies whom I had sent to them a few days before, that I would not advance to their town, until I had received an answer to my demands made through them. That this answer had been despatched by the Potawatimie Chief Winemac, who had accompanied the Miamies and Delawares on their return; that they had left the Prophet's town two days before with a design to meet me, but had unfortunately taken the road on the south side of the Wabash. I answered that I had no intention of attacking them until I discovered that they would not comply with the demands which I had made—that I would go on and encamp at the Wabash, and in the morning would have an interview with the Prophet and his chiefs, and explain to them the determination of the President—that in the mean time no hostilities should be committed. He seemed much

pleased with this, and promised that it should be observed on their part. I then resumed my march, we struck the cultivated grounds about five hundred yards below the town, but as these extended to the bank of the Wabash there was no possibility of getting an encampment which was provided with both wood and water. My guides and interpreters being still with the advanced guard, and taking the direction of the town, the army followed, and had advanced within about one hundred and fifty yards, when fifty or sixty Indians sallied out and with loud exclamations, called to the cavalry and to the militia infantry, which were on our right flank, to halt. I immediately advanced to the front, caused the army to halt, and directed an interpreter to request some of the chiefs to come to me. In a few moments the man who had been with me before made his appearance. I informed him that my object for the present was to procure a good piece of ground to encamp on, where we could get wood and water—he informed me that there was a creek to the northwest which he thought would suit our purpose. I immediately despatched two officers to examine it, and they reported that the situation was excellent. I then took leave of the chief, and a mutual promise was again made for a suspension of hostilities until we could have an interview on the following day. I found the ground destined for the encampment not altogether such as I could wish it—it was indeed admirably calculated for the encampment of regular troops, that were opposed to regulars, but it afforded great facility to the approach of savages. It was a piece of dry oak land, rising about ten feet above the level of a marshy prairie in front, (towards the Indian town,) and nearly twice that height above a similar prairie in the rear, through which and near to this bank ran a small stream clothed with willows and other brush wood. Towards the left flank this bench of high land widened considerably, but became gradually narrower in the opposite direction, and, at the distance of one hundred and fifty yards from the right flank, terminated in an abrupt point. The two columns of infantry occupied the front and rear of this ground, at the distance of about one hundred and fifty yards from each other on the left, and something more than half the distance on the right flank—these flanks were filled up, the first by two companies of mounted riflemen, amounting to about one hundred and twenty men, under the command of Major General Wells of the Kentucky militia, who served as a Major; the other by Spencer's company of mounted riflemen, which amounted to eighty men. The front line was composed of one battalion of United States' infantry, under the command of Major Floyd, flanked on the right by two companies of militia, and on the left by one company. The rear line was composed of a battalion of United States' troops under the command of Captain Baen, acting as Major, and four companies of militia infantry under Lieutenant Colonel Decker. The regular troops of this line joined the mounted riflemen under General Wells on the left flank

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and Colonel Decker's battalion formed an angle with Spencer's company on the left.

Two troops of dragoons, amounting to in the aggregate about sixty men, were encamped in the rear of the left flank, and Captain Parke's troop, which was larger than the other two, in the rear in the front line. Our order of encampment varied little from that above described, excepting when some peculiarity of the ground made it necessary. For a night attack the order of encampment was the order of battle, and each man slept immediately opposite to his post in the line. In the formation of my troops I used a single rank, or what is called an Indian file—because in Indian warfare, where there is no shock to resist, one rank is nearly as good as two, and in that kind of warfare the extension of line is a matter of the first importance. Raw troops also manoeuvre with much more facility in single than in double ranks. It was my constant custom to assemble all the field officers at my tent every evening by signal, to give them the watch-word and their instructions for the night—those given for the night of the 6th were, that each corps which formed a part of the exterior line of the encampment, should hold its own ground until relieved. The dragoons were directed to parade dismounted in case of a night attack, with their pistols in their belts, and to act as a corps de reserve. The camp was defended by two captains' guards, consisting each of four non-commissioned officers and forty-two privates, and two subalterns' guards of twenty non-commissioned officers and privates. The whole under the command of a field officer of the day. The troops were regularly called up an hour before day, and made to continue under arms until it was quite light. On the morning of the 7th, I had risen at a quarter after four o'clock, and the signal for calling out the men would have been given in two minutes, when the attack commenced. It began on our left flank—but a single gun was fired by the sentinel or by the guard in that direction, which made not the least resistance, but abandoned their officer and fled into camp, and the first notice which the troops of that flank had of the danger, was from the yells of the savages within a short distance of the line—but even under those circumstances the men were not wanting to themselves or to the occasion. Such of them as were awake or were easily awakened, seized their arms and took their stations; others which were tardy, had to contend with the enemy in the doors of their tents. The storm first fell upon Captain Barton's company of the 4th United States regiment, and Captain Geiger's company of mounted riflemen, which formed the left angle of the rear line. The fire upon these was excessively severe and they suffered considerably before relief could be brought to them. Some few Indians passed into the encampment near the angle, and one or two penetrated to some distance before they were killed. I believe all the other companies were under arms and tolerably formed before they were fired on. The morning was dark and cloudy—our fires afforded a partial light, which, if it gave us some opportunity of taking our positions,

was still more advantageous to the enemy, affording them the means of taking a surer aim—they were therefore extinguished as soon as possible. Under all these discouraging circumstances, the troops (nineteen twentieths of whom had never been in action before) behaved in a manner that can never be too much applauded. They took their places without noise, and with less confusion than could have been expected from veterans placed in a similar situation. As soon as I could mount my horse, I rode to the angle that was attacked—I found that Barton's company had suffered severely, and the left of Geiger's entirely broken. I immediately ordered Cook's company and the late Captain Wentworth's, under Lieutenant Peters, to be brought up from the centre of the rear line, where the ground was much more defensible, and formed across the angle in support of Barton's and Geiger's. My attention was there engaged by a heavy firing upon the left of the front line, where were stationed the small company of United States riflemen (then however armed with muskets) and the companies of Baen, Snelling, and Prescott, of the 4th regiment. I found Major Daviess forming the dragoons in the rear of those companies; and understanding that the heaviest part of the enemy's fire proceeded from some trees about fifteen or twenty paces in front of those companies, I directed the Major to dislodge them with a part of the dragoons. Unfortunately the Major's gallantry determined him to execute the order with a smaller force than was sufficient, which enabled the enemy to avoid him in front, and attack his flanks. The Major was mortally wounded and his party driven back. The Indians were however immediately and gallantly dislodged from their advantageous position, by Captain Snelling, at the head of his company. In the course of a few minutes after the commencement of the attack, the fire extended along the left flank, the whole of the front, the right flank, and part of the rear line. Upon Spencer's mounted riflemen, and the right of Warwick's company, which was posted on the right of the rear line, it was excessively severe: Captain Spencer and his first and second Lieutenants were killed, and Captain Warwick was mortally wounded—those companies however still bravely maintained their posts, but Spencer had suffered so severely, and having originally too much ground to occupy, I reinforced them with Robb's company of riflemen, which had been driven, or by mistake ordered from their position on the left flank towards the centre of the camp, and filled the vacancy that had been occupied by Robb with Prescott's company of the 4th United States regiment. My great object was to keep the lines entire, to prevent the enemy from breaking into the camp until day light, which should enable me to make a general and effectual charge. With this view I had reinforced every part of the line that had suffered much; and as soon as the approach of morning discovered itself, I withdrew from the front line Snelling's, Posey's (under Lieutenant Albright) and Scott's, and from the rear line, Wilson's companies, and drew them up

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upon the left flank, and at the same time I ordered Cook's and Baen's companies, the former from the rear and the latter from the front line, to reinforce the right flank; foreseeing that at these points the enemy would make their last efforts. Major Wells, who commanded on the left flank, not knowing my intentions precisely, had taken the command of these companies, had charged the enemy before I had formed the body of dragoons with which I meant to support the infantry; a small detachment of these were however ready and proved amply sufficient for the purpose. The Indians were driven by the infantry at the point of the bayonet, and the dragoons pursued and forced them into a marsh, where they could not be followed. Captain Cook and Lt. Larebee had, agreeably to my order, marched their companies to the right flank, had formed them under the fire of the enemy, and being then joined by the riflemen of that flank, had charged the Indians, killed a number, and put the rest to a precipitate flight. A favorable opportunity was here offered to pursue the enemy with dragoons, but being engaged at that time on the other flank, I did not observe it until it was too late.

I have thus, sir, given you the particulars of an action which was certainly maintained with the greatest obstinacy and perseverance by both parties. The Indians manifested a ferocity uncommon even with them—to their savage fury our troops opposed that cool and deliberate valor which is characteristic of the Christian soldier.

The most pleasing part of my duty (that of naming to you the corps and individuals who particularly distinguished themselves) is yet to be performed. There is, however, considerable difficulty in it—where merit was so common it is almost impossible to discriminate.

The whole of the infantry formed a small brigade under the immediate orders of Colonel Boyd. The Colonel throughout the action manifested equal zeal and bravery in carrying into execution my orders, in keeping the men to their posts and exhorting them to fight with valor. His Brigade Major Clark, and his Aid-de-Camp George Croghan, Esq. were also very servicably employed. Colonel Joseph Bartholomew, a very valuable officer, commanded under Colonel Boyd the militia infantry; he was wounded early in the action, and his services lost to me. Major G. R. C. Floyd, the senior of the 4th United States' regiment, commanded immediately the battalion of that regiment, which was in the front line; his conduct during the action was entirely to my satisfaction. Lieutenant Colonel Decker, who commanded the battalion of militia on the right of the rear line, preserved his command in good order; he was, however, but partially attacked. I have before mentioned to you that Major General Wells, of the 4th division of Kentucky militia, acted under my command as a Major at the head of two companies of mounted volunteers; the General maintained the fame which he had already acquired in almost every campaign and in almost every battle which has been fought with the Indians since the settlement

of Kentucky. Of the several corps, the 4th United States' regiment and two small companies attached to it, were certainly the most conspicuous for undaunted valor. The companies commanded by Captains Cook, Snelling, and Barton; Lieutenants Larebee, Peters, and Hawkins, were placed in situations where they could render most service and encounter most danger, and those officers eminently distinguished themselves. Captains Prescott and Brown, performed their duty also entirely to my satisfaction, as did Posey's company of the 7th regiment headed by Lieutenant Albright. In short, sir, they supported the fame of American regulars, and I have never heard that a single individual was found out of the line of his duty. Several of the militia companies were in no wise inferior to the regulars. Spencer's, Geiger's, and Warwick's maintained their posts amidst a monstrous carnage, as indeed did Robb's after it was posted on the left flank; its loss of men (seventeen killed and wounded) and keeping its ground is sufficient evidence of its firmness. Wilson's and Scott's companies charged with the regular troops and proved themselves worthy of doing so. Norris's company also behaved well; Hargrove's and Wilkins's company were placed in a situation where they had no opportunity of distinguishing themselves, or I am satisfied they would have done it. This was the case with the squadron of dragoons also. After Major Daviess had received his wound, knowing it to be mortal, I promoted Captain Parke to the majority, than whom there is no better officer.

My two Aids-de-Camp, Majors Hurst and Taylor, with Lieutenant Adams of the 4th regiment, the adjutant of the troops, afforded me the most essential aid, as well in the action as throughout the campaign.

The arrangements of Captain Pratt in the Quartermaster's Department were highly judicious, and his exertions on all occasions, particularly in bringing off the wounded, deserve my warmest thanks. But, in giving merited praise to the living, let me not forget the gallant dead. Colonel Abraham Owen, commandant of the 18th Kentucky regiment, joined me a few days before the action as a private in Captain Geiger's company; he accepted the appointment of volunteer Aid-de-Camp to me; he fell early in the action. The Representatives of his State, will inform you that she possessed not a better citizen nor a braver man. Major J. H. Daviess was known as an able lawyer and a great orator; he joined me as a private volunteer, and, on the recommendation of the officers of that corps, was appointed to command the 3d troop of dragoons. His conduct in that capacity justified their choice; never was there an officer possessed of more ardor and zeal to discharge his duties with propriety, and never one who would have encountered greater danger to purchase military fame. Captain Baen, of the 4th United States' regiment, was killed early in the action; he was unquestionably a good officer and valiant soldier. Captains Spencer and Warwick, and Lieutenants McMahan and Berry, were all my particular friends; I have ever had the ut-

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most confidence in their valor, and I was not deceived. Spencer was wounded in the head—he exhorted his men to fight valiantly—he was shot through both thighs, and fell, still continuing to encourage them—he was raised up, and received a ball through his body which put an immediate end to his existence! Warwick was shot immediately through the body; being taken to the surgery to be dressed, as soon as it was over (being a man of great bodily vigor and still able to walk) he insisted upon going back to head his company, although it was evident that he had but a few hours to live.

All these gentlemen, sir, Captain Baen excepted, have left wives, and five of them large families of children; this is the case too with many of the privates among the militia who fell in the action or who have died since of their wounds. Will the bounty of their country be withheld from their helpless orphans, many of whom will be in the most destitute condition, and, perhaps, want even the necessaries of life? With respect to the number of Indians that were engaged against us, I am possessed of no data by which I can form a correct statement. It must, however, have been considerable, and, perhaps, not much inferior to our own; which, deducting the dragoons, who were unable to do us much service, was very little above seven hundred non-commissioned officers and privates; I am convinced there were at least six hundred. The Prophet had, three weeks before, four hundred and fifty of his own proper followers. I am induced to believe that he was joined by a number of the lawless vagabonds who live on the Illinois river, as large trails were seen coming from that direction. Indeed, I shall not be surprised to find that some of those who professed the warmest friendship for us were arrayed against us; it is certain that one of this description came out from the town, and spoke to me the night before the action. The Potawatamie chief, whom I mentioned to have been wounded and taken prisoner, in my letter, of the 8th inst., I left on the battle ground; after having taken all the care of him in my power, I requested him to inform those of his own tribe, who had joined the Prophet, and the Kickapoos and Winnebagoes, that if they would immediately abandon the Prophet, and return to their own tribes, their past conduct would be forgiven, and that we would treat them as we formerly had done. He assured me that he would do so, and that there was no doubt of their compliance. Indeed, he said he was certain that they would put the Prophet to death. I think, upon the whole, that there will be no further hostilities; but, of this, I shall be enabled to give you some more certain information in a few days.

The troops left the battle ground on the 9th instant; it took every wagon to transport the wounded. We managed, however, to bring off the public property, although almost all the private baggage of the officers was necessarily destroyed.

It may, perhaps, be imagined, sir, that some means might have been adopted to have made a

more early discovery of the approach of the enemy to our camp the morning of the 7th inst., but if I had employed two-thirds of the army as outposts it would have been ineffectual; the Indians, in such a night, would have found means to have passed between them. Placed in the situation that we were, there is no other mode of avoiding a surprise than by a chain of sentinels so close together that the enemy cannot pass between without discovery, and, having the army in such readiness, that they can get to their alarm posts at a moment's warning. Our troops could not have been better prepared than they were, unless they had been kept under arms the whole night, as they lay with their accoutrements on, and their arms by their sides, and the moment they were up they were at their posts. If the sentinels and the guard had done their duty even the troops on the left flank would have been prepared to receive the Indians.

I have the honor to enclose you a correct return of our killed and wounded. The wounded suffered very much before their arrival here, but they are now comfortably fixed, and every attention has been and shall continue to be paid to them. Doctor Foster is not only possessed of great professional merit, but is, moreover, a man of feeling and honor.

I am convinced, sir, that the Indians lost many more men than we did; they left from thirty-six to forty on the field. They were seen to take off not only the wounded but the dead. An Indian that was killed and scalped in the beginning of the action by one of our men, was found in a house in the town; several others also were found in the houses, and many graves which were fresh dug; one of them was opened and found to contain three dead bodies.

Our infantry used, principally, cartridges containing twelve buck shot, which were admirably calculated for a night action.

I have before informed you, sir, that Colonel Miller was prevented, by illness, from going on the expedition; he rendered essential service in the command of Fort Harrison; he is an officer of great merit.

There are so many circumstances, which it is important for you to know, respecting the situation of this country, that I have thought it best to commit this despatch to my Aid-de-Camp, Major Taylor, who will have the honor of delivering it to you, and who will be able to give you more satisfaction than I could do by writing. Major Taylor (who is also one of our Supreme Judges) is a man of integrity and honor, and you may rely upon any statements he may make.

With the highest respect, I have the honor to be, sir, your humble servant,

WM. H. HARRISON.

P. S. Not a man of ours was taken prisoner, and, of three scalps which were taken, two of them were recovered.

WM. H. H.

Hon. W. EUSTIS,
Secretary of War.

Battle with the Indians on the Wabash.

A general return of the killed and wounded of the Army under the command of His Excellency William Henry Harrison, Governor and Commander-in-Chief of the Indiana Territory, in the action with the Indians, near Prophet's Town, November 7, 1811.

Killed—One aid-de-camp, one captain, two subalterns, one sergeant, two corporals, thirty privates.

Wounded, since dead—One major, two captains, twenty-two privates.

Wounded—Two lieutenant colonels, one adjutant, one surgeon's mate, two captains, three subalterns, nine sergeants, five corporals, one musician, one hundred and two privates.

Total of killed and wounded, 188.

Names of officers killed and wounded, as per general return.

General Staff.—Killed—Col. Abraham Owens, aid-de-camp to the Commander-in-Chief.

Field and Staff.—Wounded—Lieut. Col. Joseph Bartholomew, commanding Indiana militia infantry; Lieut. Col. Luke Decker, of do.; Maj. Joseph H. Daviess, since dead, commanding a squadron of dragoons; Doctor Edward Scull, of the Indiana militia; Adjutant James Hunter, of mounted riflemen.

United States' Infantry, including the late Captain Whitney's rifle company.

Wounded—Capt. W. C. Baen, acting major, since dead; Lieut. George P. Peters; Lieut. George Gooding; Ensign Henry Burchstead.

Colonel Decker's detachment of Indiana militia.

Wounded—Capt. Jacob Warwick, since dead.

Major Redman's detachment of Indiana militia.

Wounded—Capt. John Norris.

Major Wells's detachment of mounted riflemen.

Wounded—Capt. Frederick Geiger.

Captain Spencer's company, including Lieutenant Berry's detachment of mounted riflemen.

Killed—Captain Spier Spencer; First Lieut. Richard McMahan; Lieut. Thomas Berry.

NATHANIEL F. ADAMS,
Adjutant of the Army.

To his Exc'y the COMMANDER-IN-CHIEF.

VINCENNES, Dec. 4, 1811.

SIR: I have the honor to inform you that the two principal Chiefs of the Kickapoos of the Prairie arrived here, bearing a flag, on the evening before last. They informed me that they came in consequence of a message from the chief of that part of the Kickapoos which had joined the Prophet, requiring them to do so, and that the said chief is to be here himself in a day or two. The account which they give of the late confederacy under the Prophet is as follows:

"The Prophet, with his Shawances, is at a small Huron village, about twelve miles from his former residence on this side the Wabash, where

also are twelve or fifteen Hurons. The Kickapoos are encamped near the Tippecanoe. The Potawatamies have scattered and gone to different villages of that tribe. The Winnebagoes had all set out on their return to their own country, excepting one chief and nine men who remained at their former village. The latter had attended Tecumseh in his tour to the southward, and had only returned to the Prophet's town the day before the action. The Prophet had sent a message to the Kickapoos of the Prairie, to request that he might be permitted to retire to their town; this was positively refused, and a warning sent to him not to come there. He then sent to request that four of his men might attend the Kickapoo chief here; this was also refused. These chiefs say, on the whole, that all the tribes who lost warriors in the late action attribute their misfortune to the Prophet alone; that they constantly reproach him with their misfortunes, and threaten him with death; that they are all desirous of making their peace with the United States, and will send deputations to me for that purpose as soon as they are informed that they will be well received. The two chiefs further say, that they were sent by Governor Howard and General Clark, some time before the action, to endeavor to bring off the Kickapoos from the Prophet's town; that they used their best endeavors to effect it, but unsuccessfully; that the Prophet's followers were fully impressed with a belief that they could defeat us with ease; that it was their intention to have attacked us at Fort Harrison, if we had gone no higher; that Raccoon creek was then fixed on, and finally Pine creek, and that the latter would probably have been the place, if the usual route had not been abandoned, and a crossing made higher up; that the attack made on our sentinels at Fort Harrison was intended to shut the door against accommodation; that the Winnebagoes had forty warriors killed in the action, and the Kickapoos eleven killed, and ten wounded; they have never heard how many Potawatamies and other tribes were killed; that the Potawatamie chief left by me on the battle ground, is since dead of his wounds, but that he faithfully delivered my speech to the different tribes, and warmly urged them to abandon the Prophet and submit to my terms."

I cannot say, sir, how much of the above may be depended on. I believe, however, that the statement made by the chief is generally correct, particularly with regard to the present disposition of the Indians. It is certain that our frontiers have never enjoyed more profound tranquillity than at this time. No injury of any kind, that I can hear of, has been done either to the persons or property of our citizens. Before the expedition, not a fortnight passed over without some vexatious depredation being committed. The Kickapoo chiefs certainly tell an untruth, when they say there were but eleven of this tribe killed and ten wounded. It is impossible to believe that fewer were wounded than killed. They acknowledge, however, that the Indians have never sustained so severe a defeat since their acquaintance with the white people.

Brigadier General James Wilkinson.

I have the honor to be, with great respect, sir,
your humble servant,

WM. H. HARRISON.

P. S. The chief of the Vermillion Kickapoos
has this moment arrived.

Hon. WM. EUSTIS, *Sec'y of War.*

GENERAL WILKINSON.

INSPECTOR'S OFFICE, WASHINGTON,
February 19, 1812.

At a General Court Martial of which Brigadier General Peter Gansevoort is President, convened at Fredericktown, in the State of Maryland, on the 2d of September, 1811, and continued by adjournments to the 25th of December following, Brigadier General James Wilkinson was tried on the following charges and specifications, viz:

CHARGE 1.—That the said James Wilkinson, while in the military service, and holding the commission of Brigadier General in the Army of the United States, did corruptly stipulate to receive, and, by virtue of such stipulation, did actually receive, by way of pension or stipend, divers sums of money from the officers and agents of a foreign Power; that is to say, from the Spanish officers and agents concerned in the administration of the late provincial government of Louisiana and its dependencies, for the intent and purpose of combining and co-operating with that Power, in designs adverse to the laws and policy, and hostile to the peace, interests, and union of these States; contrary to his duty and allegiance as an officer and a citizen.

Specification 1. Two mule loads of money (the amount unknown) being received at New Orleans by one Joseph Ballinger, for the use, and by the authority of him, the said James Wilkinson, on account of the said pension, and delivered by the hands of one John Ballinger to him, the said James Wilkinson, at Frankfort, Kentucky, some time in the month of December, 1789.

Specification 2. Two other mule or horse-loads of money (the amount unknown) being received by him, the said James Wilkinson, assisted by one Philip Nolan, at New Orleans, some time in the Autumn of the year 1789, also on account of the said pension.

Specification 3. Four thousand dollars, and upwards, being received by one La Cassagne, at New Orleans, some time in the year 1793, or in the year 1794, for the use, and by the authority of him, the said James Wilkinson, also on account of the said pension.

Specification 4. Six thousand dollars, being received by one Henry Owens, at New Orleans, some time in the Summer of the year 1794, for the use, and by the authority of him, the said James Wilkinson, also on account of the said pension.

Specification 5. Six thousand dollars, and upwards, that is to say, from six thousand three

hundred and thirty-three, to eleven thousand dollars, or thereabout, being received by one Joseph Collins, at New Orleans, some time in the Summer of the year 1794, for the use, and by the authority of him, the said James Wilkinson, also on account of the said pension.

Specification 6. Six thousand five hundred and ninety dollars, being received for the use, and by the authority of him, the said James Wilkinson, at New Orleans, by some person unknown, some time prior to the date of a letter from the said James Wilkinson to one John Adair; in which letter dated the 7th of August, 1795, the receipt of that sum is mentioned, also on account of said pension.

Specification 7. Nine thousand six hundred and forty dollars, being sent by the Baron de Carondelet, Governor General of Louisiana, from New Orleans, some time in the month of January, 1796, and by his direction, deposited at New Madrid for the use, and subject to the order of him, the said James Wilkinson; and afterwards, some time in the Summer of 1796, taken by one Thomas Power from New Madrid to Louisville, and by him delivered over to one Philip Nolan, by the direction and authority, and for the use of him, the said James Wilkinson, also on account of said pension; he, the said Power, retaining, out of the said sum of money, six hundred and forty dollars, for defraying his expenses, and receiving the instructions of him, the said James Wilkinson, to secure for him the reimbursement of the same from the Spanish Government.

Specification 8. Ten thousand dollars, or thereabout, being received by him, the said James Wilkinson, at New Orleans, some time between the 7th of December, 1803, and the 21st of April, 1804, also on account of the said pension.

Specification 9. He, the said James Wilkinson, (in consideration of having so corruptly engaged himself with the Spanish Government) receiving, at divers other places as yet unknown, and on divers other days and times, between the first day of January, in the year 1789, and the 21st of April, in the year 1804, by divers secret ways and means, a pension, stipend, or gratuity, from the officers and agents of that Government.

Specification 10. He, the said James Wilkinson, did, some time in the month of October, in the year 1798, at the camp at Loftus' Heights, in a secret conference there with one Daniel Clark, set up a claim to ten thousand dollars, as a balance due to him, the said James Wilkinson, from the Spanish Government, on account of his said pension or stipend, and did, then and there, request the said Daniel Clark to propose to the Spanish Governor, Gayoso, that the latter should, in consideration of the said balance of ten thousand dollars, due to the said James Wilkinson from the Spanish Treasury, transfer to him, the said James Wilkinson, a plantation near the Natchez, then belonging to the said Gayoso.

CHARGE 2.—That he, the said James Wilkinson, while in military service, and holding the commission of Brigadier General in the Army of the United States, did combine and confederate

Brigadier General James Wilkinson.

himself with the officers and agents of a foreign Power; that is to say, with the Spanish officers and agents concerned in the administration of the late provincial government of Louisiana, for the purpose of devising and carrying into effect certain pernicious and treasonable projects for the dismemberment of the United States, and for an unlawful and treasonable confederacy between certain dismembered portions of the United States and the said foreign Power; and, for that purpose and intent, did hold divers secret consultations, and carry on secret and treasonable correspondences with certain officers, agents, and emissaries of that Power, contrary to his duty and allegiance as an officer and a citizen.

Specification 1. He, the said James Wilkinson, in pursuance, and in execution of his said unlawful plot and confederacy, did, some time in the months of October and November, in the year 1795, at Cincinnati, carry on a treasonable correspondence with the Spanish Governors, the Baron de Carondelet and Don Manuel Gayoso de Lemos, touching the execution of the said unlawful plot and confederacy, which correspondence was carried on by means of a certain emissary employed by the said Governor Gayoso, named Thomas Power; and did, at the same time, direct the said Thomas Power to lay certain observations verbally before the said Governor Gayoso and the Baron de Carondelet, calculated to arrange and settle a plan for continuing a secret and unlawful correspondence between him, the said James Wilkinson, and the Spanish officers and agents in the province of Louisiana; and for secretly preparing the means necessary to the execution of the said unlawful plot and confederacy.

Specification 2. He, the said James Wilkinson, in pursuance of his said unlawful plot and confederacy, and in continuation of his said unlawful and treasonable correspondence, on or about the 22d day of September, in the year 1796, did send from Fort Washington a certain letter in cipher addressed to the said Governor Gayoso, for the purpose of further devising ways and means to conceal the treasonable correspondence and confederacy between him, the said James Wilkinson, and the Spanish officers and agents in Louisiana, and further to devise ways and means to execute the unlawful objects of the same.

Specification 3. He, the said James Wilkinson, in pursuance of his said unlawful plot and confederacy, and in continuation of his said unlawful and treasonable correspondence, did cause and procure his confidential agent, Philip Nolan, to write certain instructions to the said emissary, Thomas Power, for the prudential government of his, the said Thomas Power's conduct, in performing the part assigned in the said plot and confederacy, and for the purpose of regulating the said Thoms Power's proceedings therein, so as to guard him against detection or mistake.

Specification 4. He, the said James Wilkinson, on divers days and times, in the years 1795, 1796, 1797, at Frankfort, at Cincinnati, at Greenville,

at Detroit, and at Fort Washington, did hold divers secret and unlawful conferences and consultations with the said Spanish emissary, Thomas Power, both by day and by night, for the purpose of advising and devising the means of executing his said unlawful plot and confederacy.

Specification 5. He, the said James Wilkinson, at divers other days and times, between the 1st day of January, 1789, and the 21st day of April, in the year 1804, at divers places in the United States, and at New Orleans and divers other places in the province of Louisiana, did, in pursuance of the said plot and confederacy, and in further continuation of the said unlawful correspondence, hold and carry on divers other secret, unlawful, and treasonable conferences, correspondences, and consultations with the said Thomas Power, with one Gilberto Leonard, Andres Armes-to, the Baron de Carondelet, and Governor Gayoso, all officers or agents of the provincial government of Louisiana, and with divers other confederates, as yet unknown, engaged on behalf of the said government.

CHARGE 3.—That he, the said James Wilkinson, while commanding the Army of the United States, by virtue of his said commission of Brigadier General, did combine and confederate himself with known traitors, or with those known to be conspiring treason against the United States; with intent to promote and advance the consummation of such treason, or conspiracy of treason, contrary to his duty and allegiance as an officer and a citizen.

Specification. He, the said James Wilkinson, combining and confederating with one Aaron Burr and his associates and coadjutors, in the years 1805 and 1806, in a certain treasonable conspiracy to dismember the United States, by effecting a separation and division of the States and Territories west of the Alleghany, from those to the east, and to set up a separate and independent empire to be composed of such western States and Territories.

CHARGE 4.—That he, the said James Wilkinson, while commanding the Army of the United States, by virtue of his said commission of Brigadier General, and being bound by the duties of his office, and by his fidelity as a citizen, to do all that in him lay to discover and frustrate all treasons and conspiracies against the United States, did, nevertheless, connive at and permit conspiracies of treason, and did encourage and abet the same, by his countenance, as commander of the Army.

Specification. He, the said James Wilkinson, in the years 1805 and 1806, receiving from the said Aaron Burr and his associates confidential communications of their treasonable designs, and permitting their solicitations of his active co-operation in their treason, without his making any timely discovery of their pernicious designs.

CHARGE 5.—That he, the said James Wilkinson, while commanding the Army of the United States, by virtue of his said commission, and being bound by the duties of his office to do all that in him lay to discover and to frustrate all

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such enormous violations of the law as tended to endanger the peace and tranquillity of the United States, did, nevertheless, unlawfully combine and conspire to set on foot a military expedition against the territories of a nation then at peace with the United States.

Specification. He, the said James Wilkinson, in the years 1805 and 1806, combining and conspiring with Aaron Burr and his associates, to set on foot a military expedition against the Spanish provinces and territories in America.

CHARGE 6.—Disobedience of orders.

Specification. In that the said Brigadier General James Wilkinson, being then in command of the troops assembled at New Orleans, was, by written orders and instructions from the War Department, dated April 30th, 1809, required and directed to give the necessary orders for the immediate removal of said troops to the high ground in the rear of Fort Adams, and to the high ground in the rear of Natchez, in the Mississippi Territory, referring to his discretion to occupy those stations respectively with such portion of the troops as he should judge most convenient and proper; which order and instructions the said General Wilkinson wholly neglected and refused to obey, and did, thereafterwards, in the month of June following, cause said troops to be removed in a contrary direction to a station called Terre au Bœuf, below New Orleans, at which station he formed an encampment and remained until the month of September following.

CHARGE 7.—Neglect of duty.

Specification 1. In that the said General Wilkinson permitted bad and unwholesome provisions to be issued to, and consumed by, the troops under his command, during the Summer and Autumn of 1809, and did not exercise the right of commanding officer, in respect to the execution of the contract made by James Morrison with the War Department, for supplying provisions, as provided in the 2d, 4th, and 5th articles of said contract.

Specification 2. In not selecting, previous to the removal of the troops to the Mississippi Territory, in September, 1809, and in not leaving at the hospital in New Orleans, under the care of proper officers and physicians, such of the sick and convalescent as could not be removed without manifest and increased danger of their lives, and in so distributing the men in the transports, when removing, as to incommode and endanger both the sick and well, thereby disregarding and defeating the primary object of the order for removal.

Specification 3. In not ordering the military agent at New Orleans to make the necessary advances of money to the brigade and regimental quartermasters, and in not giving orders for the troops to receive their pay, clothing, medicines, and hospital stores, which were in readiness for them in New Orleans at the time of their ascending the river in September, 1809.

CHARGE 8.—Misapplication and waste of public money and supplies.

Specification 1. In that the said General Wil-

kinson, in May, 1805, ordered the assistant military agent at Pittsburg to pay for the transportation of his private property from Baltimore, out of the public money "and place the same to the account of public transportation for military service."

Specification 2. In halting a detachment of the Army at Louisville, Kentucky, in February, 1809, consisting of several companies, which detachment was descending the Ohio in transports, and in then and there detaining said detachment to take on board ten horses, the private property of said General Wilkinson, which horses were transported in public boats to New Orleans by his order, and were fed at public expense for several months.

Specification 3. In authorizing certificates to be annexed to the provision abstracts of the Army contractor, to enable the contractor to receive from Government the full price of good and wholesome provisions, when it was well known to the said General Wilkinson that a great portion of the provisions comprised in those abstracts, so passed in the Summer and Autumn of 1809, were unmerchantable and unfit for use.

To which charges and specifications General Wilkinson pleaded "Not Guilty."

WEDNESDAY, December 25, 1811.

The court being cleared, proceeded to form and deliver its definitive sentence as follows, viz:

On the first charge, and the ten specifications attached to that charge, (after hearing all the evidence both for and against the accused, and due deliberation being had thereon) the court is of opinion, that they are not supported, and, therefore, acquits Brigadier General Wilkinson of all and each of them.

It is due to the nature and magnitude of this trial to state that the testimony adduced in support of the two first charges, and their several specifications, appears to be well calculated to warrant the suspicions which have long prevailed, of a corrupt connexion between said Wilkinson and the late Spanish provincial government of Louisiana, and fully to justify a legal inquiry into the grounds of them. The court, to the best of its ability, has pursued this inquiry—which has been the more laborious and perplexing, from the agreement of the Government and the accused, to admit, on all the charges and specifications, without discrimination, the documental testimony, collected and reported to the House of Representatives by several committees of that body, as also part of the testimony given on the trial of Aaron Burr; much of which is unessential as to matter, and incorrect as to form, and inadmissible in judicial proceedings on any other principle than that above stated.

Hence the admission of testimony in support of the two first specifications to the first charge, though it is within the knowledge of some of the court, that, in 1789, (the time when it is alleged the accused received of the agents of Spain large sums of money on account of a pension or stipend,) said Wilkinson did not hold a commission in the

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Army of the United States, and, therefore, is not amenable to a military tribunal for those alleged offences; nor do the records of this court exhibit any evidence in support of them.

In support of the other eight specifications to the first charge, the evidence arising from said documental testimony is mostly relied on; part of which has been confirmed, under oath in open court, by one of the original deponents. Unquestionable evidence appears on the records of this court, exhibited on the part of the accused, that General Wilkinson, in the month of August, 1788, obtained of the Spanish provincial government of Louisiana, the privilege of carrying the products of Kentucky to the New Orleans market; that the said products, thus carried or forwarded by him prior to the year 1790, as appears by the several accounts current, sold in said market for more than eighty thousand dollars—a sum of greater magnitude than is alleged, in the specifications to the first charge, to have been received by said Wilkinson on account of his pension or stipend; that during the year 1790, the shipments of said Wilkinson, to a very considerable amount, appear to have been sold, by particular agreement, to Governor Miro, who purchased them on account of the King of Spain—the proceeds of which were subsequently remitted to said Wilkinson at various times, and by means of various persons, and, therefore, a strong presumption results from the evidence, that the several sums embraced by the several specifications to the first charge, (alleged to have been received by said Wilkinson on account of his Spanish pension or stipend,) were part of the avails due to said Wilkinson on account of the several shipments made by him during the period of his commercial transactions at New Orleans.

The preceding remarks are grounded on proofs, both direct and collateral; from the whole of which a violent presumption arises, that the connexion, formerly subsisting between General Wilkinson and the late Spanish provincial government of Louisiana, was exclusively of a commercial nature, which was maintained on the part of said Wilkinson, by such means as his policy and interest suggested to insure success, though tending to excite jealousies and unfavorable suspicions of his views; that said Wilkinson made no shipments, subsequent to the year 1790, and that the avails of said shipments were occasionally remitted to him till the year 1796, when the account between General Wilkinson and Governor Miro was finally closed, and balanced by their respective agents—after which there is no evidence of the receipt of money by him from said Spanish provincial government, or any of its agents, except in one instance, by his own voluntary confession, and that on account of former mercantile contracts.

On the second charge, and the five specifications attached to that charge, (after hearing all evidence, both for and against the accused, and due deliberation being had thereon,) the court is of opinion that said charge and specifications are not supported, and, therefore, acquits Brigadier

General James Wilkinson of all and each of them.

The evidence adduced in support of said charge and specifications, appears, in a great measure, to grow out of the private correspondence of General Wilkinson with the Spanish officers and agents, the statement of one witness, and the oral testimony, deposition, and narrative of another.

It appears evident to the court, that, in 1795, a considerable sum of money was due to General Wilkinson from the Spanish Government at New Orleans, on account of his commercial transactions. This circumstance is deemed sufficient to account for such part of said correspondence as has been proved, which was apparently intended to preserve the friendship of the officers and agents of the Spanish power; to magnify the importance of General Wilkinson in their view; to secure his property then under their control at New Orleans; and to facilitate its remittance from that place.

There is no proof before the court that the letter said to be in cipher, bearing date the 22d of September, 1796, was actually written by General Wilkinson, and forwarded by him to Governor Gayoso, as said letter imports. On the contrary, the only witness who has testified on this point, does not pretend to the least knowledge of the fact; and all he pretends to know is, that said letter was put into his hands by said Gayoso, who certified it to be a deciphered copy of one written by General Wilkinson, and addressed to himself.

Strong doubts are entertained by the court whether General Wilkinson ever directed the emissary, mentioned in said specifications, to lay before the Baron de Carondelet and Governor Gayoso the verbal observations alluded to in the first specification, because the court has no other proof than the testimony of said emissary, whose general character, as to truth and veracity, has been impeached by several creditable witnesses, and whose conduct before the court, while under the obligations of an oath, was such as to render his allegations suspicious—because his testimony, in general, appears to have been given under the dominion of strong prejudices, if not malice—because the testimony of said emissary, so far as it is applicable to the points in issue, is contrary to the most solemn assurances, both written and verbal, previously made, and uttered by him to various persons, even so recent as 1807—and because said testimony appears to have been voluntarily offered, after a lapse of many years; which in any case ought to be admitted with some caution, and much more so from the character of the witness and emissary in question.

The court is of opinion that the instructions to said emissary, alleged to be in the handwriting of Philip Nolan, (if any such were ever authorized by General Wilkinson,) were mostly intended to accomplish an object by no means criminal, which grew out of the dispute at that time unfortunately subsisting between him and the late General Wayne.

The records of this court will show that the

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witness first alluded to, by two letters addressed to said emissary just before he exhibited his statement under oath, in January, 1808, and in contemplation of that statement, manifested such a decided hostility to said Wilkinson, as apparently to meditate his ruin without regard to the means. The motives of that statement, as fully explained in said letters, are sufficient to shake his credibility as an impartial witness; and, considering that his character as to truth and veracity is likewise impeached, the statement just mentioned, which is in evidence before the court, cannot be received as veracious, especially as it is not supported by proofs of a more credible nature. This statement, likewise, appears in some measure repugnant to the sentiments of the same witness, as expressed nearly ten years before in a memoir on the trade of Louisiana, and deposited in the office of State.

If, in 1795 and 1796, the said emissary, as is alleged by him, visited said Wilkinson with the view of promoting a separation of the Union; and if, as he intimates, said Wilkinson disclosed to him the whole scheme or project of dismemberment, it does not appear to the court, that said Wilkinson took any measure to aid such separation; on the contrary, a strong presumption exists that, if he apparently listened to propositions of this nature, it was to advance his pecuniary interest, and not to injure that of his country.

The court cannot perceive anything in the mission of the emissary in 1797, to implicate General Wilkinson. This mission appears to have been undertaken with a view to two objects—first, the dismemberment of the Western country from the Atlantic States—and, second, the delivery to General Wilkinson of an official despatch from the Baron de Carondelet, relative to the detention of the posts to the north of the 31st degree, contrary to the treaty previously concluded between the United States and Spain. If said emissary disclosed to General Wilkinson the first object of his mission, it does not appear, even by his own testimony, that he favored it: on the contrary, said emissary was received coolly, and confined to the quarters of the officers: the delivery of the posts, according to treaty, was urged by said Wilkinson in conversation with him; and it likewise appears that he sent said emissary under guard to Louisiana, and at the same time instructed the officer commanding at Fort Massac not to permit said emissary to return up the Ohio again, but to send him back in case he made the attempt. On the second object, General Wilkinson, in his reply to the letter of the Baron de Carondelet, urged the fulfillment of the treaty, and endeavored to remove all apprehension of an invasion of Louisiana by the English of Canada.

It appears sufficiently evident to the court, that General Wilkinson, during the time he had property in New Orleans, held the language of conciliation, if not that of a temporizing policy, with the officers and agents of the Spanish Government; and his views appear to have been directed to the security of that property, and by no means against the tranquillity of these States.

But, subsequent to 1796, at which time it is believed he had drawn most of his property from New Orleans, and provision was made for the free navigation of the Mississippi, he seems to have changed his language. If said emissary is to be credited, General Wilkinson declared to him in September, 1797, that he had relinquished all intercourse with the Spanish Government; and at the same time intimated his determination to oppose its projects. It must be remembered that General Wilkinson was at that time at the head of the Army, and that while that station opened new and safe channels of communication with the officers and agents of Spain, and multiplied the means of dismemberment, he appears to have disregarded them, and at the moment, too, when he had it in his power to favor their designs with effect. It is pertinent to remark, that if attempts were made to corrupt the patriotism and integrity of General Wilkinson, the records of this court exhibit no one act of his military life which can, by the most constrained construction, be considered as the effect of such corruption. If General Wilkinson actually formed a corrupt connexion with the Spanish Government, the repeated applications made by him many years ago for an inquiry into his conduct, appear rather inexplicable—especially as many of the witnesses of his guilt, if he was guilty, then lived to testify on the subject.

After a full hearing of the evidence, both for and against the accused, on the third, fourth, and fifth charges, after the most mature deliberation thereon, the court is of opinion that they are not supported, and therefore acquits Brigadier General James Wilkinson of the said charges, and their respective specifications.

The impressions naturally made on the minds of the citizens of these United States, by the events which gave rise to the third, fourth, and fifth charges, justify a few explanatory remarks.

General Wilkinson is said to have conspired with *known traitors*, and on this notoriety all the legal force of these charges depend. In the eye of the law, as well as of reason and humanity, every man is presumed to be innocent till proved to be guilty; consequently there can be no *known traitor*, unless the proof be established by the record of his conviction; and it is not within the knowledge of this court that any *known traitor* did exist in the space of time designated by these charges; no man, as it appears, having been convicted of treason.

As the accused has taken no exception to defects of matter or form, and as a full investigation is desirable on all sides, the difficulty, which thus appears on the threshold of the inquiry, will be passed over. The period of time embraced by these three charges, is between the commencement of March, 1805, and the end of October, 1806.

Among the last acts of that session, which terminated the Vice Presidency of Aaron Burr, will be found an act erecting the Territory of Upper Louisiana into a government, and, soon after the close of that session, General Wilkinson was appointed its chief magistrate.

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It is in evidence before this court, that the General engaged with great zeal in a scheme to cause Aaron Burr to be elected a member of Congress for the State of Tennessee; and, after the failure of that scheme, he gave him warm introductions to influential characters at New Orleans. It also appears in evidence, that one speculation was contemplated for cutting a canal round the falls of the Ohio, on the Indiana side; another for opening a commercial intercourse between the territories of Spain and Upper Louisiana; and in all these schemes it is self-evident, that their ultimate success was essentially connected with the integrity and tranquillity of the Union, as well as the prospect of permanency in the General's newly acquired civil and important station; for a public commotion would have inevitably destroyed them all.

It further appears in evidence before this court, that after the failure of previous attempts to gain a seat in Congress for Mr. Burr, General Wilkinson endeavored to engage the Governor of Indiana, in a plan to cause him to be elected as a delegate for that Territory; and the manner of doing this implies an apprehension, that Mr. Burr would do some desperate act if he failed. The expressions are, "I will demand from your friendship a boon, in its influence and effects co-extensive with the Union; a boon, perhaps, on which that Union may much depend."

It is in evidence before this court, that in the month of October, 1805, subsequent to this last and ineffectual effort to serve Colonel Burr, but twelve months before any discovery was made by any other person, General Wilkinson communicated to one of the heads of department, his suspicions that Mr. Burr "was about something, whether internal or external he could not discover, but he thought he ought to keep an eye upon him." These facts seem to be irreconcilable with any views hostile to the peace, order, and integrity, of these United States.

Respecting the fifth charge, it ought to be remembered, that General Wilkinson was, by the order of Government, at the head of an avowed expedition against the Spaniards, at the very time he is thus charged with being concerned in a secret and criminal one; and it is self-evident that he had it in his power, by a single skirmish only, to have carried such a scheme into the most complete effect, with the aid of the public force under his command, and with the probability of receiving the fruition of all his views in case of success; with a certainty also, of suffering neither loss nor blame, in case of failure. But it is in evidence before this court, that from the time of his leaving St. Louis, to the concluding convention near the Sabine, General Wilkinson was zealously and incessantly employed in effecting an honorable peace; and particularly so, after the criminal views of Aaron Burr were discovered by him at Natchitoches; it is, besides, a contradiction in terms, to say that General Wilkinson favored those views, when it is avowedly owing to him that they were discomfited.

From the evidence adduced on the sixth charge

and its specification, both for and against the accused, the court is of opinion, that the written orders and instructions from the War Department, bearing date April 30th, 1809, relative to the removal of the troops from New Orleans to the high grounds in the rear of Fort Adams and Natchez, were sufficiently explicit and imperative to have authorized an expectation of a prompt obedience, had they reached New Orleans prior to the removal of the troops from that place to *Terre au Bœuf*; but as there is no evidence that said orders and instructions arrived at New Orleans, antecedent to the 14th of June, 1809, which was subsequent to said removal, the court acquits Brigadier General James Wilkinson of the said sixth charge, and of the specification attached to the same.

After a full examination of the evidence, both for and against the accused, on the seventh charge, and after the most mature deliberation thereon, the court finds the accused not guilty of the said charge, nor of any its three specifications, and does accordingly acquit him of all and each of them.

On considering the great mass of testimony which has been produced to this court relative to this charge, there appears a decisive preponderance in favor of the attention, activity, and humane exertions of Brigadier General Wilkinson; and when it is considered that the troops consisted most of new levies; that the climate on both sides of the river Mississippi, to a very great extent, is at best insalubrious; and that the summer and autumn of 1809, were unusually sickly; the court is opinion, that the misfortunes alluded to in the second specification are amply accounted for.

On the eighth charge, and its three specifications, (after hearing all the evidence, both for and against the accused, and due deliberation being had thereon,) the court is of opinion, that Brigadier General James Wilkinson is not guilty of said charge, nor any of its specifications, and therefore acquits him of all and each of them.

The court deems it necessary to offer a few remarks in explanation of the above decision, especially as it regards the two first specifications to the eighth charge.

The transportation of the baggage of General Wilkinson by the public appears not to be prohibited by the "Act fixing the military peace establishment of the United States," nor by the rules and articles of war. It is, therefore, presumed, that his claim to transportation is as equitable as that of other officers; and in this view of the subject, the order for the payment of transportation, as mentioned in the first specification, cannot be considered by the court as a military crime—more especially as the sum paid by the assistant military agent at Pittsburg, appears to have been debited to General Wilkinson as long ago as 1805, on the books of the Accountant of the Department of War.

The court cannot perceive that the public sustained any injury from the short halt of the detachment on the Ohio, to take on board the

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horses of General Wilkinson ; nor does it appear that the public sustained any injury from the transportation of said horses, in public boats, to New Orleans.

It does not appear, in evidence, that General Wilkinson directed said horses, on their passage down the river, to be fed at the public expense ; but it does appear in evidence, that General Wilkinson saved a quantity of public corn, which was sunk in the Mississippi, on board of a public boat, in front of his quarters at New Orleans ; out of which, after he had caused it to be removed on shore and dried, he detained two hundred and three flour barrels full of said corn in the ear—and for which quantity he afterwards sent his receipt to Colonel Russell, under whose charge said corn was transported from the Ohio to New Orleans, as will more fully appear by reference to the testimony. The court is, therefore, of opinion, that, under all the circumstances of this case, the taking of said corn in the manner above stated, does not constitute a military offence, especially as it appears not to have been claimed or regularly drawn on account of forage.

On the whole, the court thinks it proper to declare that, from a comparison of all the testimony, General Wilkinson appears to have performed his various and complicated duties with zeal and fidelity, and merits the approbation of his country.

P. GANSEVOORT, *Pres't.*

WALTER JONES, Jr.,
Officiating as Judge Advocate.

The court then adjourned *sine die*.

I have examined and considered the foregoing proceedings of the General Court Martial, held at Fredericktown, for the trial of Brigadier General James Wilkinson—and although I have observed in those proceedings, with regret, that there are instances in the conduct of the court, as well as of the officer on trial, which are evidently and justly objectionable, his acquittal of the several charges, exhibited against him, is approved, and his sword is accordingly ordered to be restored.

JAMES MADISON.

FEBRUARY 14, 1812.

The General Court Martial, of which Brigadier General P. Gansevoort is President, is hereby dissolved. By command of the Secretary of War.

A. Y. NICHOLL, *Adjutant and Inspector.*

INCREASE OF THE NAVY.

[Communicated to the House December 17, 1811.]

Mr. CHEVES, from the committee to whom was referred so much of the President's Message of the 5th of November, 1811, as relates to the Naval Establishment, reported, in part:

That the subject referred to your committee, in its several relations, presents a question of the highest importance to the interests of the people of this country, inasmuch as it embraces one of the great and leading objects of their Govern-

ment—that which, above all others, laid the foundation of the happy union of these States—your committee need hardly say they mean the protection of maritime commerce—an interest which, though when superficially viewed, seems to affect only the Atlantic portions of the country, yet really extends as far as the utmost limits of its agriculture, and can only be separated from it, in the opinion of your committee, by a total blindness to the just policy of Government. The important engine of national strength and national security which is formed by a naval force, has hitherto, in the opinion of the committee, been treated with a neglect highly impolitic, or supported by a spirit so languid, as, while it has preserved the existence of the establishment, has had the effect of loading it with the imputations of wasteful expense, and comparative inefficiency.

No *system* has hitherto been adopted, which, though limited by the dispensing security of the times, and the just economy of our republican institutions, was yet calculated to enlarge itself gradually with the progress of the nation's growth, in population, in wealth, and in commerce, or expand with an energy proportioned to a crisis of particular danger.

Such a course, impolitic under any circumstances, is the more so when it is demonstrably clear that this nation is inevitably destined to be a naval power, and that the virtue of economy, if no other motive could be found, would recommend a plan by which this force must be gradually increased, the necessary expenses diminished, and durability and permanency given to the strength which they may purchase.

That a naval protection is particularly secured to the interests of commerce, by our great political compact, is proved by that part of the Constitution which expressly gave to Congress the power "to provide and maintain a navy," and is confirmed by the history of the times, and the particular circumstances which led to its institution ; but it is alike secured by the fundamental nature of all government, which extends to every interest under its authority, a protection (if within the nation's means) which is adequate to its preservation ; nor is this protection called for only by the partial interests of a particular description of men, or of a particular tract of country. A navy is as necessary to protect the mouth of the Mississippi, the channel through which the produce of the agriculture of the Western States must pass to become valuable, as the bays of the Chesapeake and Delaware, and more necessary than on the shores of the Eastern or the Southern States.

It has, indeed, been urged, your committee are aware, that a naval establishment is forbidden by the great and burdensome expenditures of public money which, it is said, will be required to support it, and by the inability of the country, by any expenditure, to maintain a navy which can protect its maritime rights against the power of Great Britain. The first objection appears to your committee to be founded on a mistaken assumption of the fact ; for, in their opinion, a naval

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force, within due limits, and under proper regulations, will constitute the cheapest defence of the nation.

The permanent fortifications necessary to the defence of the ports and harbors of the Union will cost, in the opinion of your committee, as much in their erection, and as much annually, if properly provided and garrisoned, as the naval force which, it is confidently believed, on the testimony of persons competent to decide, would be amply sufficient to prevent all attacks from reaching our shores. It will thus furnish the most appropriate, adequate, and cheap protection against a foreign enemy, and will, at the same time, be perfectly innoxious to the public liberty, and the private morals of the country; dispense almost entirely with a standing army, so hostile to the genius of our free constitutions, and remove the standing vices and evils of camps and garrisons from the cities on our seacoast; cherish a noble body of mariners, who, in honorable peace, will spread the sails of a prosperous and vivifying commerce on every sea, and, in necessary war, terribly avenge their country's wrongs.

The other objection your committee suppose to be founded on an imperfect examination of the subject; for those who are best able to form opinions on this matter, from congenial professional pursuits, as well as a particular knowledge of the marine of Great Britain, declare that she cannot, at any time, spare more than a very limited force for the American station; one which can be effectually resisted by an establishment which may be supported by this Government without a direct expense, while, in its effects, it will greatly more than reimburse to the national wealth the sums which may be drawn from it for this object; protect our harbors from insult, our coasting trade from spoliations, and give us the dominion of a sea on our borders which we ought to call our own, and defend with our cannon.

To detail all the reasons on which this opinion is founded would, perhaps, not be in the power of your committee, who are, in part, governed by the opinions of men of experience and professional skill, (often among the best grounds of human faith, but not always equally communicable.) But the leading facts and principles on which it is founded are too plain and obvious to labor under this difficulty. The history of all times proves the inability of Great Britain, or any other Power, to station a large force in remote seas; for, independent of the necessity that always exists for its presence in more proximate quarters, could the former nation place the whole of her thousand ships on our coast, she would be unable, in a state of hostility with the United States, competently to supply even a considerable squadron of them, for any duration of time, with the least regard to the efficiency of the service, and without a wasteful and ruinous expense. Let those who hold a different opinion declare how, and from whence.

To the defence of your ports and harbors, and the protection of your coasting trade, should

be confined, in the opinion of your committee, the present objects and operations of any Navy which the United States can, or ought to have. In this view our advantages are great and manifest. Looking along our extended line of coast, from the northeastern to the southern extreme of our territory, we discover, in quick succession, ports and harbors furnishing in abundance every supply for active and constant service; in which to concentrate, by mutual advice and information, which can be transmitted with greatest certainty and speed, the forces of different stations, to attack the enemy in detail when his vessels may be scattered; and in which our ships may find refuge and security when approached by a force so much superior as to forbid a combat. To enter no further into details, it is obvious that, from these advantages, the power and efficiency of an American Navy must be double its nominal proportion to that of an assailing enemy. But your committee beg leave to observe, that it would be unworthy the magnanimity of the nation to look only at one Power, and forget that it stands in the relation of an independent sovereignty to other nations, against whom, unless man change his nature, and cease to be violent and unjust, it may be necessary to array the national force on that element where the injury may be suffered, and where alone it can be avenged or redressed. With this view, your committee have not considered this subject with regard only to the practicable and advisable preparation for the present momentous crisis, which, whatever it may be, must be greatly inadequate, for the reasons already stated: but the object of the committee is to recommend a system which shall look to futurity, and though limited by the present situation and means of the country, have a capacity to be enlarged in proportion to the growing wealth, commerce, and population, of the nation. Your committee are, at the same time, not unaware that some of those who are unfriendly to a Navy, ground their opposition rather upon its future permanent establishment than on its present expense. But your committee will only observe, that the wisdom of that policy seems to reach as far beyond reasonable practicable views, as it will probably fall short of the attainment of its object. To restrain the great energies of such a number, as this country possesses, of the best seamen the world ever beheld, and such a mass of tonnage as Great Britain herself has not boasted more than twenty years, will as much transcend the feeble efforts of the politician, as it would be beyond his power to create them: they are formed by the high best of beneficent nature, nurtured by our wise, free, and happy public institutions, and can only perish with the latter.

Your committee, however, admit, that it will neither be politic nor practicable to swell the Naval Establishment of this country to the size of our desires or of our necessities; but a gradual increase of it is, in their opinion, within the most limited means, and within the obvious policy of the Government; and in attempting this,

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some present addition will be made (too little—much too little, they lament) to the best strength of the nation, as a measure of preparation for this crisis of danger.

With these observations, and with a full, detailed, and useful report of the Secretary of the Navy, in reply to questions propounded by your committee, they beg leave to recommend that all the vessels of war of the United States, not now in service, which are worthy of repair, be immediately repaired, fitted out, and put into actual service.

That ten additional frigates, averaging 38 guns, be built; that a competent sum of money be appropriated for the purchase of a stock of timber; and that a dock, for repairing the vessels of war of the United States, be established in some central and convenient place.

They also beg leave to report a bill, entitled "A bill concerning the Naval Establishment."

WASHINGTON, *November 19, 1811.*

SIR: I am directed, by the committee to whom was referred so much of the President's Message of the 5th instant, as relates to the naval force of the United States, to request a reply from you to the several questions which follow; and they have also directed me to ask as early an answer as may be conveniently practicable:

1st. What number of the vessels of war of the United States is now in actual service; and what are their names, rates, and stations?

2d. What number of vessels is laid up in ordinary; what are their names and rates; what will be the expense of repairing and equipping them for actual service; within what time can the same be accomplished; and what will be their aggregate annual expense in service, with that of those now employed?

3d. What will be the expense of building, manning, and completely equipping for actual service, a vessel of each rate of those most useful and most usually employed in modern naval war; and what will be the annual expense of maintaining such vessels, respectively, in actual service?

4th. Will any, and, if any, what, force of vessels, not exceeding the rate of frigates, afford a reasonable protection to the coasting trade and the mouths of the harbors of the United States? If such be deemed incompetent, what other force is deemed requisite?

5th. What materials, for ship building and naval equipment, are deemed imperishable; and to what extent in quantity, and what amount in value, would it be practicable and advisable to provide the same?

6th. What is the number of gunboats belonging the United States; what is their state of repair; what number is in actual service; and where are they stationed or laid up?

7th. In the event of putting in commission the ships now laid up in ordinary, could the necessary seamen, to man them, be speedily procured, without an increase of pay or bounty?

I am further directed to request, that you will communicate in your reply any other information which, in your opinion, may be important or material on this subject. I have, &c.

LANGDON CHEVES.

Hon. PAUL HAMILTON, *Sec'y. Navy.*

NAVY DEPARTMENT, *December 3, 1811.*

SIR: I have had the honor of receiving your letter of the 19th instant. The several questions which you have been pleased to propound to me, involve a scope of information difficult correctly to state, and comprehend points upon which I am compelled to submit conjecture in some instances instead of fact. The subject is, however, so deeply interesting as to have commanded my most deliberate and anxious investigation.

The papers herewith submitted, and marked A, B, and C, will, I hope, afford satisfactory answers to your three first queries.

In reply to the fourth, I have to state, that, as to the force necessary to afford a reasonable protection to the coasting trade, and the mouths of the harbors of the United States, it appears to me impossible to form a satisfactory opinion, unless we knew the extent of the force by which our coasting trade and the mouths of our harbors may be assailed. The naval nations of Europe employ line-of-battle-ships. The heaviest rate of our vessels of war does not exceed a large forty-four gun frigate, which is inferior in number of guns, and men, and weight of metal, to a ship-of-the-line. If, then, while we have only frigates, an enemy should send against us ships-of-the-line, the protection which, in such case, we should be able to afford to our coasting trade, would obviously be very imperfect. With a force equal in number and rate to that of an enemy, or to that which an enemy at a distance could send against us, neither our commerce on our coast nor our harbors would have any danger to apprehend: for, considering the numerous dangers of our coast, the heavy gales and fogs to which it is peculiarly subjected, our superior knowledge of the shoals with which it abounds, and the numerous ports to which we have access for victualling, repairing, and the equipping ships, so decided would be our advantage, that it is believed an enemy, only our equal in number and rate of vessels, would not, under such circumstances, approach our shores, with any intention of remaining for the purpose of molesting our trade. Such, indeed, are the advantages which we possess, in these particulars, that I incline to the opinion that, with half the number of vessels of the same rate which might be sent against us, a reasonable protection might generally be afforded to our coasting trade. I do not wish to be considered as giving the opinion that, with such a force, our coasting trade could be effectually protected; that no capture of our merchant vessels would be made under such circumstances: for, even if our force were equal to an enemy, we might expect occasionally to have vessels captured. An enterprising enemy would watch opportunities, and

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avail himself of them; but, in our operations against the enemy, we should not, it is presumed, be found deficient in enterprise or vigilance, competent to retort his aggressions, and to secure an equivalent for all our losses.

Supposing, then, a continuance of the present state of things in Europe, and that the United States should come into collision with either of the present great belligerent Powers, a naval force of twelve sail-of-the-line (74's) and twenty well constructed frigates, including those we now have, and rating generally not less than thirty-eight guns, with the addition of our smaller vessels now in service, judiciously directed, it is believed would be ample to the protection of our coasting trade; would be competent to annoy extensively the commerce of an enemy; and uniting occasionally in operations with the gun-boats already built, if equipped and brought into service, and our fortifications, also, afford complete protection to our harbors.

The imperishable materials for ship building and naval equipment, consist of timber, plank, staves, masts and spars, iron, copper in sheets, bolts and nails, anchors, kentledge, canvass, hemp-yarns, &c. In timber of every description, required for navy purposes, our country abounds, and it would at this time be practicable to procure any quantity, on terms that are reasonable. It would unquestionably be sound economy to keep always on hand an adequate supply of this all-important article, which ought to be well seasoned before it is used. The deplorable effects of being compelled, as the Navy Department has frequently been, to use green timber in the repair of our ships, our experience too fully demonstrates. This, indeed, is one of the principal reasons of the great expense generally, and very justly, complained of by the guardians of the public purse; happily, however, it is perfectly within the reach of our power to remedy this evil, and I do most earnestly recommend to your serious consideration, the propriety of an extra annual appropriation for three years, for the purpose of enabling the Department to provide an extensive stock of every description of timber required for navy purposes. The other articles of an imperishable nature may be procured as required, or as opportunities offer to obtain them on reasonable terms, out of the general appropriation for repairs made annually, for the support of the Navy, to which purposes it will partly be devoted; and to the encouragement of the manufacture of sail cloth, manufactured within ourselves, of hemp of our own growth, by giving it a preference to that made of foreign hemp.

The paper marked D affords an answer to your sixth query, as full as the information in possession of the Department will enable me to give it.

If it should be determined to commission the ships now in ordinary, the necessary seamen to man them can, it is confidently believed, be procured without any increase of pay or of bounty, and in time to man them as they may be prepared for service.

In my answer to your fifth query, I have stated

one of the causes of the great expense of the Navy, so generally, and it is admitted justly complained of, and I have suggested a remedy for that particular cause. Other causes of expense exist, which may be obviated; and, under the latitude you have allowed me, I will, at this time, state one which immediately presents itself.

The United States do not own a dock. To repair our vessels we are compelled to heave them down—a process attended with great labor, considerable risk, and loss of time; and upon a ship thus hove down, the carpenters cannot work without much inconvenience. Hence the Department is subjected to much expense, which might be avoided by the construction of one or more suitable docks. Such a provision, even in the present state of our Navy, would be valuable for the reasons above stated; but if Congress determine to have built vessels of a rate superior to those we now have, it will certainly be found to be indispensable. The accuracy of this remark will be admitted when we consider the force requisite to heave down a ship of the size of even a frigate, and the straining of her frame when this is done on the principle of the lever.

I have now, sir, according to my best judgment, offered replies to your queries; and, assuring you of my readiness to obey the further commands of the committee,

I have the honor to be, with the greatest respect, yours,

PAUL HAMILTON.

Hon. LANGDON CHEVES, *Chairman.*

A.

Exhibit showing the number of vessels of war of the United States now in actual service; their names, rates, and stations for the winter.

Frigate President, 44 guns; Essex, 32; ship John Adams, 20; brig Argus, 16—stationed for the Winter at Newport, Rhode Island; under command of Commodore Rodgers.

Frigate United States, 44 guns; Congress, 36; ship Wasp, 16; brig Nautilus, 14—stationed for the Winter in Hampton Roads; under command of Commodore Decatur.

Frigate Constitution, 44 guns; ship Hornet, 16—foreign service.

Brig Vixen, 14 guns; Enterprise, 14—stationed for the Winter at Charleston, South Carolina; under command of Captain Campbell.

Brig Siren, 16 guns; Viper 10—stationed for the Winter at New Orleans; under command of Captain Shaw.

Brig Oneida, 16 guns—stationed for the Winter on Lake Ontario; under command of Lieutenant Woolsey.

B.

Exhibit showing the number of vessels laid up in ordinary; their names and rates; the original cost of each, including every expense; the probable expense of repairing and equipping each for actual service; the period it will probably take to repair each; and the annual expense of each in actual service.

Chesapeake, 36 guns; original cost, \$220,677.80 cents; probable expense of repairing, \$120,000;

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time necessary to repair, six months; annual expense, \$102,233.

Constellation, 36 guns; original cost, \$314,212 15 cts.; probable expense of repairing, \$120,000; time necessary to repair, six months; annual expense, \$102,253.

New York, 36 guns; original cost, \$159,639 60; probable expense of repairing, \$120,000; time necessary to repair, six months; annual expense, \$102,253.

Adams, 32 guns; original cost, \$76,622 27; probable expense of repairing, \$60,000; time necessary to repair, six months; annual expense, \$81,607.

Boston, 32 guns; original cost, \$119,570 04; probable expense of repairing, \$60,000; time necessary to repair, six months; annual expense, \$81,607.

Annual aggregate expense of the above named vessels, \$469,973.

The sums and periods of time estimated for repairing and equipping the vessels of war, comprehended in the above statement, are in a great degree conjectural; though it is presumed that the sums stated would be sufficient, and that in the time stated the vessels could be repaired.

Until these vessels shall be opened, and thoroughly examined, it is obviously impossible to ascertain, with any degree of precision, what would be the expense of repairing them, or what time it would take to repair them; for, until then, their actual state and condition cannot be ascertained. By some, it is at this time thought, that neither the New York nor the Boston are worthy of being repaired; but I hope, that on opening them, we shall find them otherwise; and, under this impression, I have returned them in this exhibit. Should they be found too rotten to repair, I shall consider it as a serious misfortune; for they have been constructed upon the most approved models for vessels of their rates.

In the estimate of the expense of the Navy for the year 1812, the employment of all our frigates, excepting those above stated, and of all our other vessels of war, and of sixty-two gunboats, is contemplated. These objects, together with the corps of marines, navy yards, ordnance, &c., are estimated to cost \$2,502,003 90, which is the aggregate amount of the estimate for the year 1812. Of this sum—

The expense of the corps of marines is estimated at	\$228,905 90
The expense of navy yards, &c.	60,000 00
The expense of ordnance, &c.	60,000 00
The expense of the vessels of war in commission, and of those and the gunboats in ordinary	1,403,098 00
The expense of the 62 gunboats in commission	750,00 00

Whole amount of the Navy estimate, for the year 1812 - - - \$2,502,003 90

If, then, the frigates now in ordinary were put in commission, "their aggregate annual expense in service, with that of those now employed," and including every other object of Navy expense, upon the scale contemplated in the estimate for the year 1812, would

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be the sum stated under the head "annual expense" in this exhibit, viz: - - - \$469,973 00
Which, added to the whole amount of Navy estimate, as stated above - - - 2,502,003 90

Makes the sum of - - - \$2,971,976 90

But, excluding the expense of the corps of marines, navy yards, and ordnance, above stated, the annual expense in service of the frigates now in ordinary, with that of those now employed, and of 62 gunboats in commission, and of all the other gunboats in ordinary, would be \$2,623,071.

The aggregate annual expense, if the frigates now in ordinary were put in commission, and added to the expense of the vessels of war now in commission and of the ordinary; but, excluding the expense of the corps of marines, navy yards, ordnance, and of the 62 gunboats in commission—that is, the annual expense of all our vessels of war in service, and the expense of gunboats in ordinary—would be \$1,873,071.

But, as stated in this paper, it would probably take six months to repair the frigates in ordinary; hence, their expense, if put in commission, would, for the year 1812, not exceed half their annual expense, viz: \$469,973; half of which is \$234,986 50 cents—say \$235,000.

If, then, the frigates in ordinary were put in commission, the whole expense of the Navy for the year 1812, including every expense whatsoever, (excepting the sum necessary to put the frigates in ordinary in repair,) would be \$2,737,003 90 cents; and, excluding the expense of the marine corps, navy yards, and ordnance, it would be \$2,388,098; and, excluding the expense of the marine corps, navy yards, ordnance, and the 62 gunboats in commission, the expense for the year 1812 would be \$1,638,098.

If, then, we had all our vessels of war in commission, their annual expense would be \$1,873,071; but, for the year 1812, as five of them could not be brought into actual service for six months, their expense would be \$1,638,098.

The estimate for the repair of the frigates in ordinary is a distinct consideration, and is not comprehended in any of the views taken of the subject. That estimate, as will be seen by reference to the table, amounts to \$480,000.

If, then, it should be determined to put the frigates now in ordinary in commission, an appropriation of \$480,000 for their repairs and equipment, and of \$235,000 for their support in actual service, during the year 1812, would be necessary. These items, added to the aggregate of the Navy estimate for the year 1812, would make the whole expense for that year \$3,217,003 90.

C.

Estimate of the expense of building and completely equipping for actual service vessels of war of various rates, and the annual expense of each.

The expense of building one 74-gun vessel, at \$4,500 per gun, is \$333,000. Annual expense of same, \$211,784.

The expense of building one 60-gun vessel, at

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\$4,500 per gun, is \$270,000. Annual expense of same, \$140,000.

The expense of building one 50 gun vessel, at \$4,500 per gun, is \$225,000. Annual expense of same, \$115,214.

The expense of building one 44-gun vessel, at \$4,500 per gun, is \$198,000. Annual expense of same, \$110,000.

The expense of building one 36-gun vessel, at \$4,500 per gun, is \$162,000. Annual expense of same, \$102,000.

The expense of building one 32-gun vessel, at \$4,000 per gun, is \$138,000. Annual expense of same, \$82,000.

The expense of building one 20-gun vessel, at \$3,500 per gun, is \$70,000. Annual expense of same, \$50,202.

[The frigate President cost \$220,910 08; the frigate Philadelphia, \$179,349; the frigate New York, \$159,629 60; the frigate Essex, \$139,362 50; the frigate John Adams, \$113,505 72; the frigate Maryland, \$70,249 83.]

An estimate of the annual expense of a 74, in detail, is subjoined for the satisfaction of the committee. The annual expense of all the rates under 60 guns is given from past experience; and in neither case, it is believed, does this statement vary materially from what would be the actual annual expense.

The estimate of the expense of building ships of war of different rates is believed to be ample. The cases referred to under 60 guns are considered as appropriate; they show the actual cost of vessels of war some years since, and it has been attempted to fix the expense per gun by this standard of experience. It is stated that a 50-gun ship may be built and equipped for \$225,000, because the frigate President cost only \$220,910 08; and this is believed to be correct; for the frigate President, although she rates less than a 50-gun ship, yet she is so nearly equal in her hull, armament, sails, rigging, &c., that such a frigate would certainly cost within \$5,000 as much as a 50-gun ship would cost. To invalidate the effect of this reference, in this case, it might be said, that, although the frigate President cost only \$220,000, yet, that other frigates—for instance, the United States, the Constitution, and the Constellation, (the two first equal and the last inferior in rate to her)—cost considerably more. The fact, indeed, is so, for the United States cost \$299,336 65 cents; the Constitution cost \$302,718 84; and the Constellation, of inferior rate to either, cost \$314,000 and upwards. But, it must be remembered that these vessels were built at a time when we had but very little experience on the subject of building and equipping vessels of war; and the fact that the frigate Constellation, (a 36,) did cost nearly \$100,000 more than the frigate President, (a 44,) is evidence of the disadvantages of inexperience in the one case, and of the advantages of experience in the other—advantages which, it is to be hoped, would be rather improved in any future attempts to build and equip vessels of war.

The number of men required for the frigate President, or for either of our largest 44's, would

be sufficient to man a 50-gun ship. Hence, the annual expense of a 50-gun ship would be about the same as the annual expense of the President, viz: \$115,214; and it is so stated, accordingly, under the appropriate head.

It may not be amiss to state, for the information of the committee, that cannon, and a considerable proportion of the requisite timber for six 74-gun ships, are at this time provided and deposited in the different navy yards.

Estimate of the pay and rations of the officers and crew of a ship of war of 74 guns, for twelve months, with 650 men.

Officers, &c.	Pay pr. month.	Pay per annum.	Rations per day.
One commander - - -	\$100	\$1,200	8
Five lieutenants - - -	40	2,400	15
One master - - -	40	480	2
One surgeon - - -	50	600	2
Sixteen midshipmen - - -	19	3,648	16
One purser - - -	40	480	2
Three surgeon's mates - - -	30	1,080	6
One boatswain - - -	20	240	2
One gunner - - -	20	240	2
One sailmaker - - -	20	240	2
One carpenter - - -	20	240	2
Three master's mates - - -	20	720	6
One captain's clerk - - -	25	300	1
Four boatswain's mates - - -	19	912	4
Four carpenter's mates - - -	19	912	4
Two boatswain's yeomen - - -	19	456	2
Two gunner's yeomen - - -	19	456	2
Two carpenter's yeomen - - -	19	456	2
Two sailmaker's mates - - -	19	456	2
Eighteen quarter gunners - - -	18	3,888	18
One chaplain - - -	40	480	2
Twelve quartermasters - - -	18	2,592	12
Two yeomen of gun-room - - -	18	432	2
One coxswain - - -	18	216	1
One cooper - - -	18	216	1
One steward - - -	18	216	1
One armorer - - -	18	216	1
Two masters-at-arms - - -	18	432	2
One cook - - -	18	216	1
Total No. of officers, 92.		\$24,420	128

Pay of 92 officers, &c., as above, to receive 123 rations - - - - - \$24,420
 To which add 280 able seamen, at \$12 per month - - - - - 40,320
 And 233 ordinary seamen and boys, at \$10 per month - - - - - 27,960

Making the total pay per annum - - - \$92,700
 From 123 rations deduct 92, as estimated in provisions, and there will remain 31 rations per day, (or 11,315 per ann.,) at 20 cents, amounting to - - - - - 2,263

Total amount of pay and rations - - - \$94,963

*Naval Hospitals of the United States.**Estimate of Provisions for 650 men.*

Bread: 207,594 pounds at 5 cents	-	\$10,307 70
Beef: 592 barrels, at \$14 50	-	8,584 00
Pork: 507 barrels, at \$18	-	9,126 00
Flour: 170 barrels, at \$10	-	1,700 00
Suet: 16,900 pounds, at 20 cents	-	3,380 00
Spirits: 14,828 gallons, at 90 cents	-	13,345 00
Peas: 528 bushels, at \$1	-	528 00
Cheese: 12,675 pounds, at 18 cents	-	2,281 50
Rice: 33,800 pounds, at 5 cents	-	1,690 00
Butter: 4,225 pounds, at 20 cents	-	845 00
Molasses: 2,113 gallons, at 75 cents	-	1,584 75
Vinegar: 2,113 gallons, at 25 cents	-	528 25
Total	-	\$53,972 20

Pay of a detachment of marines	-	\$5,675 00
Clothing, &c.	-	2,500 00
Total	-	\$8,175 00

Recapitulation and General Estimate.

Pay and subsistence of navy officers and seamen	-	\$94,963 00
Pay and clothing of a detachment of marines	-	8,175 00
Provisions	-	53,972 00
Medicines and hospital stores	-	5,000 00
Repairs and contingencies	-	40,000 00

Whole annual expense of a 74-gun ship \$202,110 00

D.

Exhibit showing the number of Gunboats in commission and in ordinary; their station, &c.

Number of gunboats.	Where stationed.	Number in commission.	Number in ordinary.	Under rep's.
54	New York	20	34	7
26	New Orleans	19	-	
14	Norfolk	8	6	
2	Charleston, South Carolina	-	2	
4	Wilmington, North Carolina	4	-	
11	St. Mary's	11	-	
10	Washington	1	9	
8	Portland	-	8	
2	Boston	-	2	
4	Connecticut and Rhode Island	-	4	
20	Philadelphia	-	20	7
10	Baltimore	-	10	
165		63	95	

REMARKS.—By the last returns, the gunboats in ordinary, generally, were in a state of preservation. All those in commission are in good condition.

NAVY HOSPITALS.

[Communicated to the House, May 26, 1812.]

NAVY DEPARTMENT, 25th May, 1812.

SIR: In obedience to the provision of the 4th section of the act, entitled "An act establishing

navy hospitals," passed 26th February, 1811, I have now the honor of submitting the paper A, containing rules and regulations for the government of the navy hospitals, authorized by that act. I have the honor to be &c.

PAUL HAMILTON.

The Hon. PRESIDENT of the Senate.

A.

Report on Naval Hospitals.

In order that the business of the hospitals may be conducted on a general plan, and with views adequate to the beneficent design of the Government, it is necessary that systematic rules and regulations be adopted. We, therefore, beg leave to submit the following to the Honorable the Secretary of the Navy of the United States, agreeably to his instructions of the 12th March, 1812.

On a supposition that each hospital will be calculated for the present to accommodate at least one hundred men, the following officers, nurses, &c., will be necessary:

- 1 Surgeon, who is also to act as a physician,
- 2 Surgeon's mates,
- 1 Steward,
- 1 Matron,
- 1 Ward master,

4 permanent nurses; any additional number at the discretion of the surgeon, who will be regulated by the number of patients and the prevailing diseases,

- 1 Cook,
- 2 Washwomen,
- 3 Servants to the hospital,

1 Porter. In addition to these, it is supposed that assistants may be obtained from the list of invalids and pensioners; places, of trust, however, ought to be permanent or during good behaviour.

Duties of the Surgeon.—1. It shall be the duty of the surgeon to direct the supply of all articles that he may think necessary for the hospital.

2. He shall visit the sick in the hospital daily, or oftener, if necessary, to prescribe and attend generally to all cases committed to his care, and direct such nourishment and quantity as he may think proper for the use of the sick and convalescents.

3. He shall have the supreme direction of everything which relates to the internal regulation of the hospital, and to the economy of the establishment, and be clothed with power to suspend from duty, or to arrest any person who may be employed therein; also to punish, in such way as shall be hereafter directed, all convalescents, pensioners, &c., who shall wilfully disobey orders, break through any of the established rules of the hospital, which are contained in the code, or which hereafter may be added with the consent of the Secretary of the Navy of the United States.

4. He shall examine and verify the steward's monthly account of all purchases and expenditures under his orders.

5. He shall keep, or cause to be kept, a book, in which shall be recorded the names of the pa-

Naval Hospitals of the United States.

tients and pensioners admitted into the hospital under his charge, the ship, navy yard, or marine port they came from, their rank, date of admission, disease or disability, discharge or death, and to whom delivered when discharged.

6. He shall report to the Navy Department the number of men and officers, who have been admitted into the hospital, every three months, with the number of days that they have been victualled, specifying the ship, navy yard, or marine port, from whence they came, distinguishing pensioners from others, to enable the Accountant of the Navy Department to appropriate the amount of the ration, stopped on board of each ship, at the navy yard or marine port, to the support of the hospital.

7. He shall cause a diary of the medical and surgical practice of the hospital to be kept, and instruct his mates in their duty; likewise such surgeons' mates of the navy as may be ordered to the hospital for instruction.

8. He shall examine annually, in conjunction with the steward, all the articles belonging to the establishment, and report all losses that may have taken place, that the amount thereof may be charged to the steward, unless he can show cause for the same.

9. He shall be careful in examining the diseases of all patients sent for admission, and is hereby enjoined not to receive any, excepting under the forms and instructions directed to be observed by the surgeons of the navy.

10. The hospital surgeons shall on no pretence whatever be obliged to act out of the line of their duty hereby prescribed.

Hospital Mates.—They shall be subject solely to the orders of the hospital surgeon in the line of their duty. They shall also be charged with the safe-keeping of all surgical instruments, medicines, and books, belonging to the hospital, and on their removal therefrom be held responsible for any loss, unless exonerated by a certificate from the surgeon. They shall have full power, during the absence of the surgeon, to confine nurses, servants, or convalescents, who have been guilty of disorderly riotous behaviour, and report the same to him at his next visit: commission and warrant officers are to be reported to the surgeon. They shall not absent themselves from the hospital without obtaining a written permission from the surgeon, unless a furlough be granted by the Secretary of the Navy. Surgeons' mates of the Navy ordered to the hospital for instruction, shall be subject to the same rules and regulations as those immediately attached to it, excepting that they shall not be charged with the safe-keeping of any of the articles belonging to the establishment, nor be vested with any of the powers hereby granted to the hospital mates.

Steward.—1. He shall be a man of strict integrity, sobriety, and ability. He shall take charge of, and be responsible for, all stores and hospital furniture furnished for the establishment and support of the hospital, medicines, and other articles in the medical department excepted. It, therefore, shall be his duty to examine all articles be-

longing to the respective wards monthly, before the nurses receive their wages, to see that nothing has been purloined by them, as he alone will finally be held responsible for the same.

2. He shall be furnished with the necessary sums, on his requisition, approved by the surgeon, to purchase such articles of diet as the surgeon may require for the use of the sick, and to defray the incidental charges against the institution; no accounts, however, shall be paid by him without being approved by the surgeon.

3. He shall keep a regular account of the number of patients, pensioners, and persons employed in the hospital, who are daily victualled, and the quantity of hospital stores (or extras) issued by order of the surgeon. For this purpose he shall open an account for every article of hospital stores and provisions in his charge, and debit each article with the quantity received. He shall likewise make out a weekly or monthly return of his disbursements and expenditure of stores, designating the regular hospital allowance and the extras, according to the requisitions of the surgeon; which return shall be examined by the surgeon and verified by his signature before the amount shall be passed to his credit. These returns shall be absolutely necessary for the final acquittal of his accounts at the Navy Department. He shall be allowed — per cent. for waste and leakage.

4. He shall, under the direction of the surgeon, superintend generally the concerns of the hospital; he shall report all absentees, at the morning and evening roll call, to the surgeon.

5. He shall superintend the management of the gardens and grass lots belonging to the institution, and keep an account of the proceeds thereof, and do all other matters that the surgeon may conceive economical and beneficial to the institution.

6. The steward shall, before he enters on the duties of his appointment, give bond with two securities for the faithful discharge of his duty.

Matron.—1. The matron, if practicable, should be the wife of the steward. She shall visit the wards of the hospital frequently, and see that the patients and bedding are kept clean; that the wards be swept and the beds made every day at an appointed hour; that the sick do not suffer for the want of proper attendance from the nurses; and that they be furnished with the nourishment prescribed by the surgeon; that the hospital be washed as often as the surgeon may think necessary; that the table linen, bedding, and hospital clothing, be washed and kept in good order.

2. She shall superintend and direct the servants employed in the hospital, likewise the cooking establishment and dairy, and do all other matters and things as may have a tendency to preserve the public property, and diminish the expenses of the institution. All nurses and servants are hereby enjoined and required to be obedient to her orders in the line of her duty.

Ward Master.—1. He shall be authorized to act as master-at-arms, to take charge of the refectory, and to execute the orders of the surgeon,

Naval Hospitals of the United States.

when punishment is to be inflicted by confinement or clog.

2. He shall take charge of the receiving and bathing rooms, and all the apparel necessary for the changing of the sick on their arrival at the hospital, and shall attend to the cleansing of them before they are introduced into their respective wards.

3. He shall take charge of, and be responsible for, all clothing belonging to the sick, which shall not be permitted to be taken into the wards; he shall have them well cleansed and purified, and when dry, deposited in the bags, chests, or knapsacks of them to whom they respectively belong, and arranged in a room set apart for the purpose, the name of each man being marked on his bag, chest, or knapsack; and when the same is delivered out of his charge, a receipt shall be given.

4. He shall call a roll in the convalescent wards, wards of recovery, and invalid wards, morning and evening, at the opening and closing of the doors of the hospitals, and report all absentees to the senior hospital mate.

5. He shall walk through the wards every night, at the hour which may be fixed on by the surgeon, to see that all lights and fires are extinguished, except those which the surgeon may conceive necessary for the use of the sick.

6. On the death of a patient in the wards, he is to take an inventory of the effects of the deceased, and deliver it to the steward, who shall take charge of them. If an officer, the steward shall take an inventory of all his goods and papers, which shall be reserved in a place of safe-keeping, for the benefit of those who may legally claim them.

7. He shall be charged with the burying of the dead, and do all other matters, by order of the surgeon, which may not have been detailed in this code.

Nurses.—1. They are hereby strictly enjoined and required to be obedient to the commands that they may, from time to time, receive from their superiors, and be careful so to conduct themselves that they may not incur the displeasure of the hospital surgeon.

Porter.—1. The porter shall be a responsible man. He shall take charge of the keys of the gates, and permit no stranger to enter who is intoxicated, or who may have liquors of any description for either the patients, nurses, invalids, or servants employed in the hospital, nor permit any person to pass out, who may be suspected of having any hospital property in possession, without giving the steward immediate information thereof. He is to report the names of those to the hospital surgeon's mates, who have been out on liberty, and returned intoxicated. He is to permit no patient or pensioner to go out, without a pass signed by the surgeon.

All other persons employed in the institution shall be subject to such orders, rules, or regulations, as the surgeon may, from time to time, think proper to establish.

No person employed in the hospital, in any department, shall, directly or indirectly, have any

private interest in the supply of any provisions or other articles which may be supplied for the establishment, or support thereof.

No pensioner or invalid shall be received into the hospital without an order from the Secretary of the Navy.

No person shall be admitted into the hospital without an order signed by the commander of the ship, navy yard, or marine port, to which he belongs, accompanied by a certificate from the surgeon, with a statement of his case, and mode of treatment which had been pursued for his recovery.* And when any seamen or marine is discharged from the hospital, the officer into whose care the man is delivered, shall give a receipt for him on the hospital books.

Whenever a seaman, ordinary seaman, boy, or marine, is sent to the hospital from a vessel of war, the purser shall send with him a statement of his accounts, signed by himself and the commanding officer, which account shall be transmitted to the purser of the ship to which said seaman, ordinary seaman, boy, or marine, may be ordered, when discharged from the hospital.

† Foreign sick seamen, belonging to the national ships of war, may be admitted into the United States' naval hospitals, provided it can conveniently be done, on application being made to the surgeon by the Consul or agent of such foreign Power to which they may respectively belong; the said Consul or agent giving a promissory note to pay — per day for each seaman so admitted, and to pay for or furnish such clothing as may be necessary for such man, and, in case of death, to pay the funeral expenses.

All pensioners shall be mustered every morning, by a commissioned or warrant officer, if any of this grade be on the pension list in the hospital; if not, by the highest in rank among the pensioners; to see that every man is clean in his person and clothing: and on Sunday there shall be a general muster and inspection of pensioners and convalescents, at the hour appointed by the surgeon, who shall personally examine every man; and every man who shall fail to appear shaved, and otherwise clean in his person and clothing, shall, for the first offence, have his allowance of beer, wine, or spirit, stopped from one to three days; for the second offence, ten days; and for the third, fifteen days, or more, at the discretion of the surgeon.

Whenever a seaman, ordinary seaman, marine, or boy, who is on the pension list, shall be taken sick, he shall be removed from the pensioners' apartment to the sick ward designated for his reception by the surgeon.

There shall be no assemblage of convalescents,

* This regulation may be dispensed with, provided the person be sent to the hospital immediately after an accident by which an injury or wound may have been received.

† Should this regulation be adopted, it will be necessary to provide for an additional number of medical assistants.

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or other persons, in the wards of the hospital, to disturb the sick. Gaming is strictly forbidden.

Any officer or other person who shall disobey any of the established rules of the hospital, or shall refuse to follow the advice of the surgeon, shall, if an officer, be forthwith discharged, on reporting him to the Navy Department; and no allowance shall be made to him for sick quarters or medical aid; but, if a seaman or marine, he shall be confined in a solitary room set apart for that purpose.

Any officer, seaman, or marine, who shall strike, or draw, or offer to draw, or raise any weapon, against the surgeon, surgeon's mates, steward, or ward master, while executing the duties of their respective offices, shall, if an officer, be cashiered; and all others confined in a solitary cell for the space of —, and sent aboard the first public ship that shall arrive at the port where such hospital may be, and shall be mulcted of their pay for — months, to be appropriated to the support of the hospital.

If any person in the hospital shall waste, embezzle, or fraudulently buy, sell, or receive, any provisions or public stores, every such person shall forfeit all the pay and subsistence then due to him; and if an officer, he shall be cashiered, and the amount deducted from his pay.

Any citizen who shall have received the goods thus purloined, on conviction before any magistrate, shall forfeit and pay double the value of the provisions or public property so bought or received, and be subject to a fine of —.

Any person in the hospital who shall be found guilty of stealing the property of his comrades, shall restore the same, or the amount thereof, and be confined, if his health will permit, in a solitary cell, for the space of —, and wear a clog and chain to his leg, as a mark of disgrace, for the space of —.

Any officer in the hospital who shall be guilty of profane swearing, drunkenness, or other scandalous conduct, tending to the destruction of good morals, shall be cashiered, or suffer such punishment as a court martial shall adjudge.

Every seaman, ordinary seaman, marine, boy, or petty officer, who shall be guilty of riotous behaviour or drunkenness, shall be confined in a solitary cell for the space of —.

Every person who may have left the hospital on permission, and who shall not have returned within twenty-four hours after the expiration of the time specified in his pass, shall be deemed a deserter, and, if a seaman or marine, shall be subject to such punishment as the articles of the Navy have directed for the crime of desertion; but if a pensioner, he shall be marked *run*, on the hospital books, and forfeit his pension.

No person in the hospital shall quarrel with any other person in the hospital, nor use provoking or reproachful words, gestures, or menaces, on pain of solitary confinement for the first offence, and, if incorrigible by this mode of punishment, he shall wear a clog and chain, as a mark of disgrace.

All crimes committed by persons belonging to,

or as patients or pensioners in, the hospital, which are not specified in this code, shall be punished according to the rules and regulations of the navy.

All clothing belonging to the deceased officers or men, which may not have been claimed within six months after public notice has been given of their decease, shall be sold, and applied to the clothing fund of the hospital.

Each person employed in the hospital, except surgeon and mates, shall be entitled to receive a naval ration, or equivalent in other articles, not exceeding twenty cents per day.

That no person may plead ignorance of the above rules and regulations, they shall be read, at the monthly muster, by the surgeon's mates, and a copy, with such regulations as may hereafter be made, shall be placed in a convenient place, in each ward, that every patient, nurse, and pensioner, may be informed thereof.

E. CUTBUSH,
GEORGE DAVIS,
SAM'L R. MARSHALL,
THOMAS EWELL.

MONDAY, *March 16th*, 1812.

—
GEORGETOWN, March 17th, 1812.

SIR: The report which we had the honor to transmit to you, under date of the 16th March, was strictly limited to the points contained in your order. There are other subjects of consideration which we beg leave to submit to your discretion. In the report presented, the duty of performing divine service has been omitted, from the desire of limiting, as far as possible, the number of officers, proportioning them according to the quantum of duty to be performed: we are, however, induced to suggest the propriety of attaching a chaplain to the institution, being of high importance, and conducive to good order and the advancement of morality. We presume that this duty would be performed, for the present, (under the invitation of the honorable Secretary of the Navy) with pleasure, by any of the clergy near those places where the hospital may be erected.

No provision, as to pay, &c., of hospital surgeons, is contained in the bill passed at the last session of Congress: in the army, an express provision is made for this class of officers. We would submit the propriety of incorporating in the bill, which may contain the rules and regulations of the hospitals, a clause specifying the rank of surgeons to hospitals, and of their mates, as it respects land and sea officers; also to allow the same pay and emoluments as the hospital surgeons in the army of the United States now receive.

Under all European Governments, hospital surgeons and naval surgeons have a definite rank: it serves as a stimulus for men of talents, not only to offer their services, but to continue in service when the situation is made as reputable as that of any other class of officers. Our navy has, hitherto, with a few exceptions, been rather as a medical school for young gentlemen, who enter it for prac-

Annexation of West Florida to the Mississippi Territory.

tical knowledge: this is incorrect, as no person should be permitted to take charge of the health and lives of seamen, in whose capacity his fellow-citizens cannot confide; those, therefore, who have not graduated at a respectable college or university, should be obliged to submit to an examination before they are commissioned.

We have not noticed the capacity or the sites necessary for the hospitals; we conceive, however, that from eight to ten acres of ground would be necessary for each hospital, and, to the hospital and asylum, at least fifteen acres, more if convenient.

Gentlemen intended for the situation of hospital mates should be examined by those who may be appointed hospital surgeons, to ascertain their ability to perform the duties of their station. We beg leave to submit the propriety of making a distinction between the two hospital mates, as, for example, the senior and the junior; the former to be capable of performing the duties of naval surgeon.

We are unacquainted with the extent of your views respecting the hospital establishment; we have, therefore, reported the number of medical officers, &c., for one hundred men; but if for a greater number, it will be necessary to increase the establishment by an addition of medical officers, whose duties must be defined.

We have the honor respectfully to submit the above remarks.

E. CUTBUSH,
GEORGE DAVIS,
SAM'L R. MARSHALL,
THOMAS EWELL.

ANNEXATION OF WEST FLORIDA TO THE MISSISSIPPI TERRITORY.

[Communicated to the House, November 20, 1811.]

To the Honorable the Senate and House of Representatives of the United States:

We, the inhabitants of West Florida, your petitioners, represent to your honorable body, that, while we rejoice in the late event which has brought about our emancipation from the iron shackles of despotism, or rather released us from the more horrid calamities of anarchy, we still labor under the painful apprehension that your enlightened body will either continue us a separate Territory, or attach us to the Territory of New Orleans, instead of incorporating us with the Mississippi Territory, which we most ardently wish, for the following reasons:

The geographical and relative situation of West Florida and the Mississippi Territory plead powerfully in favor of the measure. The climate, the soil, the people, the manners, and the politics of both countries, are the same, being only divided by an ideal boundary. We are all Americans by birth, and in principle; but if we are united with the Territory of Orleans, we will be subjected to all the inconveniences and miseries resulting from a difference of people, language, manners, cus-

oms, and politics. The safety, and, indeed, the political salvation of the Government of the United States, entirely depend on the unanimity of all its parts, which is best insured by combining persons and things homogeneous in their nature. If this be true, and if West Florida and the Territory of Orleans differ in every material respect, (of which there can be no doubt,) it follows that a coalition of the two countries would be productive of discord, the evil genius of republican Governments.

Your petitioners are aware of the policy suggested by some, of adding us, who are all Americans, to the people of the Territory of Orleans, who are chiefly French, in order to counteract the French influence. This may be sound policy, but to make us the instruments of effecting that object, at the same time that it might be advantageous to the United States in general, it would be destructive to our individual happiness; a sacrifice too great, we trust, to be required of us to make by a Government wise in its Constitution, and just in its Administration.

If, to counteract French influence, and subvert French politics, by populating the country with Americans, be the policy of the Government, your petitioners conceive that object will be shortly effected by the very great emigration of Americans from all parts of the United States. If those emigrants are subjected to all the inconveniences which we deprecate from a similar connexion, the case is not so hard with them as it would be with us, because they have voluntarily chosen that situation.

But, waiving all objection on the score of dissimilarity betwixt us and the people of Orleans, nature herself seems to have thrown a barrier in the way to oppose the union. The city of New Orleans is, and in all probability will continue to be, the seat of government of that country; where, of course, all public business must be transacted, and which will, therefore, induce the necessity of the personal attendance of a great proportion of the people within the jurisdiction of that government, at the city of New Orleans; which will be extremely inconvenient to the inhabitants of West Florida, on account of the largeness and difficult navigation of Lake Pontchartrain, which completely insulates us from the city of New Orleans.

If, however, your honorable body should deem it unadvisable to attach us to the Territory of Orleans, in order to prevent a measure calculated to continue us under a separate Territorial government, we beg leave to state that, owing to the local situation of our country, it is not susceptible of a thick settlement; that, if it were settled with as many persons as the nature of the country will admit, yet we do not believe there would be wealth enough among us to defray the expenses of a government, without operating a very serious injury to us. But, admitting we are able to bear the expenses of a Territorial government, if the Mississippi Territory, and the Territory of Orleans should become States, independent of us, we would forever remain a Territory; for, neither

Union Canal in the State of Pennsylvania.

in point of numbers, nor in point of extent of country, would we ever arrive at the proud magnitude of claiming an admission into the Union, as a free, sovereign and independent State. Our only hope of participating with the rest of our brethren on the Continent in the rights and blessings of State sovereignty, is built upon the pleasing anticipation of becoming a part of the Mississippi Territory. By that means, independent of our own individual interests, the Mississippi Territory will derive the advantage of an extensive seacoast, of which she will otherwise be deprived.

For the foregoing reasons, we humbly trust that your honorable body will grant our request, by adding all that tract of country now in possession, by virtue of the President's proclamation of 1810, to the Mississippi Territory.

There is also another subject in which your petitioners are deeply interested, to which we beg leave to call your attention. Your petitioners have generally emigrated to this country since the cession of Louisiana to the United States. When possession of New Orleans, and that of the country west of the Mississippi was taken, and the Province of West Florida left in possession, and under the exclusive jurisdiction of Spain, we took it for granted that the Government of the United States either did not claim, or, if they did, meant not to insist upon their claim to West Florida; we, therefore, have made settlements on lands, under the rules and forms of the Spanish Government, expecting to hold our lands to ourselves and our heirs forever. We, therefore, pray your honorable body to confirm to us our settlement rights, made between the time of the cession of Louisiana, until the time of taking possession of West Florida, wherever they have been made *bona fide*, and not with an intention to monopolize unreasonable quantities of lands, under such regulations as may best comport with the wisdom and justice of Congress.

We humbly trust that your enlightened body will grant this request, when you take into view all the circumstances which it involves. The consequences to us and our families are all important. If we are deprived of our possessions, we are deprived of our property; and consequently, will be reduced to the extremes of want and wretchedness.

GEORGE PATTERSON,
And four hundred and ten others.

UNION CANAL IN PENNSYLVANIA.

[Communicated to the Senate, December 6, 1811.]

PHILADELPHIA, Nov. 19, 1811.

To the Senate and House of Representatives of the United States in Congress assembled: the memorial of the President and Managers of the Union Canal Company of Pennsylvania, respectfully sheweth:

That, in the year one thousand seven hundred and ninety-one and two, the Legislature of Penn-

sylvania, for the purpose of opening a communication between the eastern and western parts of the State, by canals and locks, incorporated two companies under the titles of "The Schuylkill and Susquebanna Navigation," and "The Delaware and Schuylkill Canal Navigation," with such powers, privileges, and immunities, as were then deemed requisite for the accomplishment of the object.

That a number of citizens (some of whom were greatly distinguished by former services, civil as well as military, rendered to their country in the contest which secured and established her independence,) actuated by a regard for the public good, and by an ardent desire of strengthening and cementing that Union which had then so recently been established, made liberal contributions of their wealth to a large amount, and engaged in the measures necessary to the opening of the contemplated communication, with a spirit of zeal and enterprise worthy of the patriotic undertaking.

That large sums of money were expended for the purpose of exploring the country, and deciding on the best route, and afterwards in the purchase of the soil through which the canals were to pass, and in partial openings of them to a considerable extent; and the most sanguine expectations were entertained that the works would proceed rapidly to their completion.

Encountered, however, with difficulties which had not been anticipated (many of them arising, doubtless, from the novelty of such an undertaking in this country, and the want of experience in the mode of accomplishing it,) the affairs of the companies became embarrassed. Unfortunately, too, the allurements of external commerce, promising enormous advantages, (which have since, however, proved so precarious and delusive) fascinated the public attention to such a degree, that the moderate and progressive, though certain and permanent advantages of internal commerce, were, for a season, neglected and forgotten, and the canal companies were left to languish. Many years elapsed; until, at length, the outrages committed by foreign nations upon the property of our commercial citizens taught us the expediency and the necessity of looking at home for those sources of wealth and national greatness which we had persuaded ourselves were to be found exclusively in foreign commerce.

Your memorialists regard with inexpressible satisfaction the resolution of the Senate of the United States of the 2d of March, 1807, which required the Secretary of the Treasury to report on public roads and canals. The discussions on that occasion, and the publication of the report of the Secretary, have recalled the public attention to the all-important interests of internal commerce; and your memorialists are impressed with a firm conviction that if the countenance and aid of the Government are, in a due degree, extended to those who have engaged, or are willing to engage, in the execution of canals, the United States will, ere long, rival the nations of Europe in works of this description.

Complaint against Judge Toulmin.

Your memorialists further represent that the Legislature of Pennsylvania, actuated by the same patriotic motives which have produced the measures taken by the Federal Government, and regarding those measures as a pledge that its aid would not be withheld, by an act of the 2d of April last, united the two canal companies before mentioned, and incorporated your memorialists, and the other stockholders therein, under their present title of "The Union Canal Company of Pennsylvania," with increased powers and privileges; and, to enable them to embrace the object of the Federal Government in its full extent, the Legislature have expressly authorized this company to extend the route of their canal so as to communicate with Lake Erie, or other waters of any neighboring State.

Since the incorporation of the Union Canal Company your memorialists have engaged themselves in extricating the affairs of the former companies, in organizing the new one, and in forming such plans as, uniting prudence with a due portion of enterprise, will be best calculated to insure ultimate success. It is their determination to avail themselves of the assistance of practical and scientific engineers; and, having no personal interests to consult in the choice of the route, they will have a single eye to the interests of the public, which must be the interests of the company.

Your memorialists have some ground for believing that the desired communication between the lakes and the Atlantic can be effected in Pennsylvania with less delay than by any other route, and at less expense. They feel, however, no jealousy of canals projected by their neighbors, but, on the contrary, are desirous of co-operating in the promotion of them, being convinced that, by two or more such communications, the public interests will be better subserved, and no injury or diminution of profit suffered by the individuals or companies who may undertake them.

Your memorialists will not misuse the time and attention of your honorable bodies by adducing facts, or entering into arguments to show the powerful tendency which an easy communication, and frequent intercourse with our Western brethren, would have "to increase union," insure domestic tranquillity," and "promote the general welfare of the people of the United States;" but, resting the truth of these positions on the broad basis of universal opinion, strengthened by what they are persuaded is the sentiment of the enlightened Representatives of the nation, they will content themselves by praying that your honorable bodies will give such aid to the Union Canal Company of Pennsylvania as in your wisdom shall seem proportioned to the usefulness and greatness of their undertaking, and the extensive means and munificence of this great and growing Republic.

And your memorialists will ever pray.

CHAS. G. PALESKE, *President.*

JAS. MILNOR, *Vice President.*

G. SIMPSON, *Treasurer.*

WM. MEREDITH, *Counsellor.*

JOSEPH WATSON, *Auditor.*

COMPLAINT AGAINST JUDGE TOULMIN.

[Communicated to the House, December 16, 1811.]

WASHINGTON, M. T. Nov. 20, 1811.

SIR: By a resolution of the House of Representatives of the Mississippi Territory, I have the honor to forward to you a copy of a presentment of the grand jury for the county of Baldwin, against Harry Toulmin, Esq., Judge of the Superior Court for the district of Washington. The House over which I have the honor to preside, deeming the charges therein contained worthy of further investigation, has required me to transmit another copy to the Delegate of this Territory, to be laid before the House of Representatives of the United States in Congress assembled, accompanied with a transcript of the resolution which gives me the honor of this communication.

With high consideration and respect, I am, &c.

COWLES MEAD,

Speaker of the House of Representatives.

To the Hon. the SPEAKER,

Of the House of Reps. United States.

To the Honorable Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, the presentment of the Grand Jury of Mississippi Territory for Baldwin county to the Legislature of the Territory:

We, the grand jury in and for the county aforesaid, do represent unto your honorable body, that we hold the pure and impartial administration of justice the firmest bond to secure the cheerful submission of a free people to their Government; and whenever an individual, who has been clothed with the office of a judge to effect this object, has betrayed the trust confided to him by the Government, and oppressed the people, it becomes the absolute duty of the unfortunate citizens, over whose lives, liberty, and property, he may ultimately decide, to represent his nefarious conduct to that body who can, with the whole voice of the Territory, call on that tribunal who has the power, constitutionally placed in them, to examine the conduct of such officer, and to deprive him of that office if found guilty. As such, we, as the grand jury of our country, the guardians of our fellow-citizens' lives, liberty, property, and reputation, do most solemnly call the attention of your honorable body to the conduct of H. Toulmin, Esq., who has presided ever since the year eighteen hundred and five, as judge of the Superior Court for Washington district. Although he has not scrupled to prostitute his dignity, and betray the sanctity of his office, decency and truth shall guide the way in our presentment.

We present the following acts of his mal-administration:

- 1st. Making decisions in vacation, and at the next term having them made a matter of record.
- 2d. Uniting in himself the character of judge and party, in making a challenge of a juror.
- 3d. Acting partially in his office as judge of the Superior Court for Washington district.
- 4th. For having refused an unfortunate pris-

Extension of Patent Rights.

oner, when on his trial, to consult with his counsel, or his counsel with him, in private; declaring that there should be no secrets, but what advice was to be given should be given in open court.

5th. For having ordered the Attorney General for Washington district to file an *ex officio* information against a citizen of this country for a capital offence, in violation of the Constitution of the United States.

6th. For having ordered a jury to find a citizen of this country guilty, after they had returned their verdict of not guilty to the court.

7th. For having established a rule of court for the district of Washington, that no person shall dismiss a suit, except in open court, and that with leave of the same.

8th. For having holden a court of examination in the garrison of Fort Stoddart, and examined witnesses at the point of the bayonet.

9th. For having carried on a verbal as well as a written correspondence and intercourse with the Government of Spain, heretofore exercised in West Florida, with intent to influence the conduct of the said Government in relation to the dispute with the United States, as to the sovereignty of West Florida, and to defeat the measures of the Government of the United States.

WILLIAM BUFORD, *Foreman.*

REPRESENTATIVES' CHAMBER,
Nov. 17, 1811.

Resolved by the House of Representatives of Mississippi Territory in General Assembly convened, That the Speaker of this House be requested, without delay, to forward three copies of the presentment of the grand jury of Baldwin county, made to this House against Harry Toulmin, Esq., Judge of the Superior Court for Washington district, one copy to the Speaker of the House of Representatives of the United States, one copy to the President of the United States, and one copy to the honorable George Poindexter, our delegate in Congress, together with a transcript of this resolve, to be by him laid before the House of Representatives of the United States in Congress assembled, for their consideration.

COWLES MEAD,

Speaker of the House of Representatives.

Attest:

THOS. B. REED, *Clerk.*

EXTENSION OF PATENT RIGHTS.

[Communicated to the Senate, December 23, 1811.]
To the honorable the Senate of the United States of America in Congress assembled, the memorial of Aaron Ogden, of Elizabethtown, in the State of New Jersey, most respectfully sheweth:

That your memorialist, having full confidence in certain improvements on Boulton and Watt's steam engine, now patented to Mr. Daniel Dod, of Windham, in New Jersey, did, many months since, make with him a contract for a steam engine upon his improved plan.

That your memorialist did also, about the same

time, make another contract for building a suitable boat, to be propelled by the said engine, for the better accommodation of passengers between New Jersey and New York.

That the said machinery and boat are now nearly completed, at a very great expense, already incurred and to be incurred, in fulfilling the said contracts, all which will be chiefly lost and sacrificed, and a very great public accommodation prevented, if your memorialist shall be precluded from the free use of his boat by any law of the United States hereafter to be passed.

That your memorialist has been informed, by persons skilled in this kind of machinery, and himself verily believes, after full examination, that the plan he has adopted will not interfere with any now secured to Mr. Fulton by any patent or patents which he has obtained under the Constitution of the United States; and that if the above patentee should bring suit, under present existing laws, for an interference with any of his said supposed right against your memorialist, that your memorialist believes that he will be able to prove fully at the trial that the thing which may be alleged to be so secured by the patent, and so interfered with, "was not originally discovered by the said patentee, but that the same had been in use, or had been described in some public work anterior to the said supposed discovery;" under which testimony, agreeably to the express provisions of the law of the United States, on the 21st February, 1793, judgment must be rendered for the defendant.

That, if the bill now before the Senate should pass into a law, it will become necessary, under the third section thereof, for a defendant further to prove that such thing had been in effectual use or operation within three years next before the time when a steamboat was first brought into public use by Mr. Fulton; whereby steamboats lawfully built, and constructed at very great expense, and for public benefit, may be totally useless, and lost both to the public and the owners.

Your memorialist will not further transgress, by urging considerations arising from the terms of the Constitution, which, in article 1, section 8, makes provision for the exclusive rights of discoveries for the benefit of *inventors* only; from the inferences, in respect to the existing rights of Mr. Fulton, to be drawn from his application for a special law in his favor; from the general nature of retrospective legal provisions; from the public inconvenience in the extension of monopolies; finally, from the prescribing a particular mode of trial and proof in favor of particular persons, differing from the mode prescribed in similar cases by the general law of the land.

Your memorialist, entirely confiding that the rights of all the citizens of the United States will be duly considered in regard to the premises, most humbly prays that the bill now before the Senate, and above referred to, may not pass into a law.

And your memorialist, as in duty bound, shall ever pray, &c.

AARON OGDEN.

Canals in the State of New York.

Personally appeared before me, Caleb Halsted, Junior, Mayor of the borough of Elizabethtown, Aaron Ogden, within named, who, having been duly sworn, deposes and says, that the matters herein set forth as his own acts and deeds, are true, and, as far as regards the acts and deeds of others, he believes to be true.

AARON OGDEN.

Sworn before me at Elizabethtown, New Jersey, this 18th day of December. 1811.

CALEB HALSTED, Jr., Mayor.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled, the memorial of Isaiah Townsend, in behalf of himself and others of the city of Albany, in the State of New York, proprietors of the steam-boats Hope and Perseverance, of said city, respectfully sheweth :

That your memorialists, in the year 1811, built two boats at an expense of upwards of fifty thousand dollars, under a conviction that they had a right to navigate the same under the existing laws of the United States; that the said boats have successfully plied between the cities of New York and Albany, on the Hudson river, for the greater part of the last season for the accommodation of passengers.

That a suit has been commenced in the circuit court of the United States for the district of New York, against your memorialists, by Robert Fulton, of the State of New York, under a pretence that your memorialists have invaded certain patents granted to him from the Department of State, to recover from your memorialists *treble* damages, under the third section of the act of Congress, passed the 17th day of April, 1800; which suit is now depending and undetermined.

That your memorialists, under the full conviction that the said Robert Fulton is not, in fact, the inventor or discoverer of the mode of propelling boats by steam, have instituted proceedings in the district court of the United States for the district of New York, pursuant to the tenth section of the act of Congress, passed the 25th day of February, 1793, to effect a repeal of the patents granted to the said Robert Fulton; which proceedings are also pending and undetermined; and your memorialists are confident that, upon the trial, they will be able satisfactorily to prove that the said Robert Fulton is not the discoverer or inventor of the mode of propelling boats by steam.

Your memorialists would, therefore, most respectfully submit to your honorable bodies the propriety of any legislative interference, while the rights of the said Robert Fulton and your memorialists are thus pending in the competent judicial tribunals of the country, where a fair, full, and impartial investigation can be had, under the existing laws of the United States, under which the said patents have been granted. Your memorialists view the application made to your honorable bodies by Mr. Fulton for relief

(if granted to him,) as contravening that sound policy which forbids legislation in particular cases falling within the scope of general laws, as it is introductive of an odious and oppressive favoritism, in subversion of justice and of right.

Your memorialists will conclude, by submitting one other consideration in relation to the bill now pending before the honorable the Senate, for "extending the time of certain patents granted to Robert Fulton," and which to them appears of itself to be a sufficient objection to passing the same into a law. The patents to Mr. Fulton are of recent date, and it is yet to be ascertained (if it is decided that Mr. Fulton's patents are valid) whether he will not be fully and amply remunerated at the period of their expiration. And if, at that time, it shall appear that his merit has not been sufficiently rewarded, your memorialists confidently believe that he may then, with a certainty of success, apply to an American Congress, who will ever yield to genius its due, and to merit its reward.

And your memorialists, as in duty bound, will ever pray.

ISAIAH TOWNSEND.

NEW YORK CANALS.

[Communicated to the House, December 23, 1811.]

To the honorable the Senate and House of Representatives of the United States in Congress assembled, the undersigned, Commissioners of the State of New York, respectfully represent :

That, by a law of which they have taken the liberty to transmit an exemplified copy to the President, they are, among other things, directed to make application to the Congress of the United States for their co operation and aid in making a canal navigation between the Great Lakes and Hudson river, which, in the opinion of the Legislature of New York, will encourage agriculture, promote commerce and manufactures, facilitate a free and general intercourse between different parts of the United States, tend to the aggrandizement and prosperity of the country, and consolidate and strengthen the Union.

To these powerful incentives we feel it a duty to add our conviction that, in a fiscal point of view, this object is not unworthy of public regard, seeing that, by a good navigation from the lakes to the ocean, and by that alone, the speedy sale of, and payment for, many million acres of the public lands can be effected.

We might add other considerations, but, as doubts may, in course of the business arise, and explanations be required, we have deemed it advisable to depute two of our members, De Witt Clinton and Gouverneur Morris * * to be the bearers of this application to the seat of Government, with instructions to enter, from time to time, into all needful expositions.

We crave, on the part of the State of New York, the credence and favorable notice of their

Cumberland Road in Maryland and Ohio.

representations. And, as in duty bound, shall ever pray.

GOUVERNEUR MORRIS,
DE WITT CLINTON,
SIMEON DE WITT,
W. NORTH,
THOMAS EDDY.
ROBERT R. LIVINGSTON,
ROBERT FULTON,
PETER B. PORTER.

Commissioners.

[Communicated to Congress, December 24, 1811.]

*To the Senate and House of
Representatives of the United States :*

I communicate to Congress copies of an act of the Legislature of New York, relating to a canal from the Great Lakes to Hudson river. In making the communication I consult the respect due to that State in whose behalf the commissioners appointed by the act have placed it in my hands for the purpose.

The utility of canal navigation is universally admitted. It is not less certain that scarcely any country offers more extensive opportunities for that branch of improvements than the United States; and none, perhaps, inducements equally persuasive, to make the most of them. The particular undertaking contemplated by the State of New York, which marks an honorable spirit of enterprise, and comprises objects of national, as well as more limited importance, will recall the attention of Congress to the signal advantages to be derived to the United States from a general system of internal communication and conveyance, and suggest to their consideration whatever steps may be proper, on their part, towards its introduction and accomplishment. As some of those advantages have an intimate connexion with arrangements and exertions for the general security, it is at a period calling for these, that the merits of such a system will be seen in the strongest lights.

JAMES MADISON.

DECEMBER 23, 1811.

An Act to provide for the improvement of the internal navigation of the State, passed April 8, 1811.

Whereas a communication, by means of a canal navigation, between the Great Lakes and Hudson river will encourage agriculture, promote commerce and manufactures, facilitate a free and general intercourse between different parts of the United States, and tend to the aggrandizement and prosperity of the country, and consolidate and strengthen the Union: Therefore,

I. Be it enacted by the people of the State of New York, represented in Senate and Assembly, That Gouverneur Morris, Stephen Van Rensselaer, De Witt Clinton, Simeon De Witt, William North, Thomas Eddy, Peter B. Porter, Robert R. Livingston, and Robert Fulton, shall be, and hereby are, appointed commissioners for the con-

sideration of all matters relating to the said inland navigation; and in case of the resignation or death of any of the said commissioners, the vacancy shall be supplied by the person administering the Government of this State.

II. And be it further enacted, That the said commissioners, or a majority of them, shall be, and hereby are, empowered to make application in behalf of this State to the Congress of the United States, or to the Legislature of any State or Territory, to co-operate and aid in this undertaking, and also the proprietors of the land through which such navigation may be carried, for cessions or grants to the people of this State, to be received by the said commissioners in their discretion; and also to ascertain whether loans can be procured on advantageous terms, on the credit of this State, for the purpose aforesaid, and the terms on which the Western Inland Lock-navigation Company would surrender their rights and interests to the people of this State.

III. And be it further enacted, That the said commissioners shall be, and hereby are, empowered to employ engineers, surveyors, and such other persons as, in their opinion, may be necessary in order to enable them to fulfill the duties imposed on them by this act, and to pay them for their respective services, such sums as may be reasonable.

IV. And be it further enacted, That the said commissioners shall, and they are hereby required to report to the Legislature, at their next session, an account of the whole of their proceedings.

V. And be it further enacted, That the Treasurer shall pay to the order of a majority of the said commissioners, out of any moneys in the Treasury, not otherwise appropriated, any sum or sums not exceeding \$15,000, and for which the said commissioners shall account to the Comptroller of this State.

CUMBERLAND ROAD.

[Communicated to Congress, February 3, 1812.]

*To the Senate and House of
Representatives of the United States :*

I lay before Congress a report of the Secretary of the Treasury, containing a statement of proceedings under the "act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio."

JAMES MADISON.

FEBRUARY 1, 1812.

TREASURY DEPARTMENT,
January 25, 1812.

SIR: In conformity with the provisions of the act "to regulate the laying out and making a road from Cumberland, in the State of Ohio," several proposals were received, and contracts entered into for making the first ten miles of the road with the following persons, viz:

Cumberland Road in Maryland and Ohio.

McKinley, 2 miles and 246 perches, at \$21 50 per perch - - - -	\$18,827 25
Randle, 2 miles and 8 perches; at \$14 50 per perch - - - -	9,396 00
Cochran, 2 miles and 131 perches, at \$22 50 per perch - - - -	17,347 50
Cochran, 2 miles and 255 perches, at \$16 50 per perch - - - -	14,767 50
Total, 10 miles - - - -	\$60,338 25

A copy of one of the contracts (A) is herewith enclosed which will show, in detail, the terms, the obligations entered into by the contractors, and the manner in which the road is to be made.

In those contracts the bridges are not included, and all the smaller ones have been contracted for at the rate of one dollar and fifty cents to two dollars per perch of mason's work. This, together with contingent allowances, some additional work which could not be embraced in the contracts, and the annual salary of \$1,800 allowed to Mr. David Shriver, junior, who superintends the whole, will, it is believed, make the entire cost of those ten miles seventy-five to eighty thousand dollars.

It appears, by Mr. Shriver's report, which, together with an extract of his letter of the same date, is herewith enclosed, (B.) that it is probable that these ten miles will be completed by the first day of August next, according to contract.

The sum appropriated for making the road amounts, after defraying the expenses of surveying and laying out the same, to \$125,477 51; and there will, therefore, remain, after paying the whole expense of finishing the first ten miles, an unexpended balance of about \$50,000 applicable to the prosecution of the work. This, supposing the expense to be at the same rate, would be sufficient to complete nearly seven miles more.

Mr. Shriver suggests that it would be desirable that contracts might be made, and the road be completed for eleven miles instead of seven. This would reach as far as Tomlinson's, twenty-one miles from Cumberland, where the old and new roads meet, and render the whole work done useful, even if it proceeded no further. For effecting that object a further appropriation of about \$30,000 would be necessary.

Another observation of the Superintendent, which deserves particular attention, relates to the necessity of levying tolls sufficient to keep the road in repair; but this can be done only under the authority of the State of Maryland.

From the nature of the contracts, and from the manner in which the work has been executed, it will, it is believed, satisfactorily appear that the chain of mountains, which divides the Atlantic from the Western States, offers no real impediment to an easy communication, and that roads may generally be made as perfect, as convenient, and on the same terms, across those mountains, as in any other part of the Union.

I have the honor to be, &c.

ALBERT GALLATIN.

To the PRESIDENT OF THE UNITED STATES.

A.

Articles of agreement made and concluded on the eighth day of May, in the year of our Lord one thousand eight hundred and eleven, between Henry McKinley, of Maryland, of the one part, and Albert Gallatin, Secretary of the Treasury, in behalf of the United States, on the other part.

Whereas, the said Henry McKinley has agreed for, and in consideration of, the payments hereinafter mentioned, to make and complete in a workmanlike manner a certain part of the road leading from Cumberland, in the State of Maryland, to Brownsville, in the State of Pennsylvania, as the same has been laid out and confirmed, in pursuance of the act entitled "An act to regulate the laying out, and making a road from Cumberland, in the State of Maryland, to the State of Ohio," and of the act entitled "An act in addition to the act, to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," which part of the road thus contracted for by the said Henry McKinley, and hereinafter described, is to be made and completed by the said Henry McKinley, in the following manner, and on the following conditions, that is to say: The trees to be cut down and cleared the whole width of sixty-six feet, according to the fourth section of the act abovementioned; the stumps to be grubbed, and the bed of the road to be levelled thirty feet in width; the hills to be cut down, the earth, rocks, and stones, to be removed, the hollows and valleys, and the abutments of all the bridges and culverts, to be filled, so that the whole of the road on the aforesaid width of thirty feet, to be reduced in such manner, that there shall not in any instance be an elevation in said road when finished, greater than an angle of five degrees with the horizon, nor greater than the gradation fixed by the commissioners who laid out the road, and so that the surface of the said road shall be exactly adapted to the marks or stakes, made or to be made, by the person appointed superintendent for the said road by the President of the United States. Where the earth is to be raised, the sides are to slope at an angle not exceeding thirty degrees, the base or bottom part thereof to be of such width as to secure to the road a complete surface of thirty feet in width; a proper allowance to be made for the settling of the made earth, according to the directions of the superintendent; and no stumps, logs, or wood, of any kind, to be permitted in the filling. In all situations on sides of hills, or otherwise, where it may be necessary to fill, but where the nature of the ground will not, in the superintendent's opinion, admit filling with such slope as above mentioned, and where side walls will be built at the expense of the United States, the contractor is to fill four additional feet in breadth, so as to give thirty-four feet surface to the road. Where the hills are cut through, or the road dug along the side of a hill, the bank or banks to be cut of such slope as will be necessary to prevent the earth from falling or slipping in upon the said surface of thirty feet. But in those places where, from the steep ascent of the side of the hill, to cut

Cumberland Road in Maryland and Ohio.

with such slope would be impracticable, and where the superintendent may cause side walls to be built to support the bank at the expense of the United States, the bank may, with his permission, be cut perpendicular, or with a greater angle. The superfluous earth to be removed to the next filling, and there spread, so as to increase the breadth of the road equally on each side, from the commencement of the filling to the end of it, unless otherwise permitted, or directed, by the superintendent. What may be deficient, in order to fill the hollows, to be dug out of the aforesaid thirty feet, or from the banks, in such a way as to increase the width of the road equally through the nearest cutting, unless otherwise permitted or directed by the superintendent. Nor in any instance, the earth to be dug without such permission or direction, more than one foot below the surface of the pavement, within the aforesaid breadth of sixty-six feet. A ditch or water course to be left or made on each side of the said surface of thirty feet, and contiguous thereto; but where the road is dug along the side of a hill, having an ascent exceeding thirty degrees, the ditch along the side of the hill may be dug within the width of the thirty feet, so that the surface of the road, including the said ditch, shall, in such cases, be only thirty feet in breadth. The ditches are, in every instance, to be of such breadth and depth as the superintendent shall direct, and valleys or sewers above the surface of the ground, necessary to give vent to the waters on the side of the hills, to be made in all parts where, and in such manner, as shall be designated by the superintendent. The road to be covered twenty feet in width, with stone eighteen inches in depth in the middle, and diminishing to twelve inches at the sides; the upper six inches thereof, to be broken to such a size as that each particle thereof will pass through a ring of three inches in diameter, and the remaining or lower stratum to be broken so as to pass through a seven inch ring. No stones to be used for said pavement but such as may be approved of; provided, they are within one mile, on an average, from the part of the road where they may be wanting, and particular pains to be taken to select the best for the upper six inches. In all cases, where bridges or culverts are built, the pavement to extend twelve inches deep from the extremity of the aforesaid breadth of twenty feet to each side wall, the whole length of said walls; for which additional pavement the contractor shall, in addition to the price stipulated in the articles of agreement, hereto annexed, receive an allowance at the rate of one dollar for every fifty superficial square feet of such additional pavement. The whole of the said artificial stratum of broken stones to be made in a compact manner, and to be supported on each side by good and solid shoulders, and its surface to be formed as smooth and even as may be, and of such convexity as the superintendent may direct. Each grade of the road to be perfectly levelled, brought to the proper degree, and approved, before any stones are put on the same; and the lower stratum of stones passing through a seven inch ring,

is then to be put on, levelled and approved, before the upper stratum of stones, passing through a three inch ring, is put on. In every instance the contractor to find, at his own expense, the stones wanted for the pavement, and for his work on the road, but to be allowed, in addition to the price stipulated as hereinafter stated in the articles of agreement, at the rate of half a dollar for each perch in length of the road, where he shall be obliged to pay the owners of the adjacent farms for such stones. The side roads, on each side of the pavement, to be dug as low and deep in the cut parts of the road, and particularly through the rock, as the superintendent may direct; and the filling of such side roads, where the same is necessary, to be raised as high as may be directed by the superintendent. No contractor is to interfere with the stones of the contractors for adjacent sections of the road; for which purpose a line at right angles with the road, at the end of each section, will be considered as dividing the right to stones by each contractor, unless otherwise directed by the superintendent on account of a want of stones within the limits of any one section. Masons, or other persons, who may contract with the United States for the building of bridges, culverts, walls, or any other species of mason's work on the road, to be permitted by the contractor to take and select such stones, within his division, as such mason or other person may think proper, and to haul the same along the parts of the road levelled by the contractor, or elsewhere, to the place where such stones may be wanted, without any interruption. Wherever the road meets with, or runs along the course of any other road heretofore used, a sufficient width of road to be kept open for wagons and all kinds of carriages, to pass and repass without delay or interruption, whilst the new road is making. The contractor shall not in any instance let or transfer his contract, or any part thereof, to any other person without the superintendent's consent; and in every instance, where such sub-contract may be made, the price per perch to be allowed to such sub-contractor shall be fixed, with the said superintendent's approbation, and shall be paid by him to such sub-contractor, out of the first moneys which may become due to the principal contractor, according to the provisions for payment stipulated in the articles of agreement. The contractor shall not employ any workmen or laborers, who commit depredations in the neighborhood, or insult the travellers; and he shall, on the application of the superintendent, immediately discharge any workman or laborer in his employ. The contractor shall commence working on his station at the end nearest to Cumberland, unless a deviation in that respect be assented to by the superintendent.

Now, this agreement made and concluded on the 28th day of May, 1811, between the said Henry McKinley, of the one part, and Albert Gallatin, Secretary of the Treasury, in behalf of the United States, of the other part, witnesseth, that the said Henry McKinley, for his heirs, executors, and administrators, does hereby covenant,

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promise, and agree with the said Albert Gallatin as aforesaid, that he, the said Henry McKinley, shall and will, well and faithfully, and in a workmanlike manner, on or before the 1st day of August, 1812, make, finish, and complete in the manner, and on the conditions hereinbefore mentioned, all that part of the road abovementioned, which is designated by the name of the "first section," beginning at Cumberland, in Maryland, and ending at a place on said road two miles and two hundred and forty-six perches distant from said Cumberland. In consideration whereof, the said Albert Gallatin, for and in behalf of the United States as aforesaid, doth hereby covenant, promise, and agree, to and with the said Henry McKinley, his executors, and administrators, that the said United States shall and will, for doing and performing the work aforesaid, well and truly pay, or cause to be paid, to the said Henry McKinley, his executors, or administrators, at the rate of twenty-one dollars and twenty-five cents for each and every perch in length of said road, in the following manner, viz: when forty perches in length of said road are finished, and approved by the superintendent, the United States will pay to the said Henry McKinley, for twenty perches: and after that, they will pay him on the completion of every twenty perches for the said twenty perches; at all time reserving the amount due for the first twenty perches, until the whole of the section hereby contracted for shall have been finished and completed to the satisfaction of the superintendent, agreeably to contract, when the balance due shall be paid to the said Henry McKinley. And the said Henry McKinley, for himself, his heirs, executors, and administrators, further covenant and agree with the said Albert Gallatin, Secretary of the Treasury, for and in behalf of the United States, that, in case the said Henry McKinley shall not well and truly, from time to time, comply with and perform all the covenants and conditions hereinbefore stated and stipulated on his part to be done, performed, and complied with, in the manner and form, and within the time hereinbefore mentioned; or, in case it should appear to the Secretary of the Treasury, for the time being, or to the superintendent of the road for the United States, that the work does not progress, and go on with sufficient speed, so as to be finished and completed in the time herein specified, that then the foregoing agreements on the part of the United States, and every part thereof, shall become null and void; and the United States shall be at liberty, and have full right and authority, anything herein to the contrary notwithstanding, to employ and set to work, or to contract with any person or persons whomsoever, in the place and stead of the said Henry McKinley, and without any interruption or interference whatsoever from him, the said Henry McKinley, his executors, or administrators.

In witness whereof, the said Albert Gallatin, Secretary of the Treasury, in behalf of the United States, hath hereunto subscribed his name, and affixed the seal of the Treasury; and the said Henry McKinley has hereunto set

his hand and seal, the day and year first before mentioned.

ALBERT GALLATIN,
Sec'y of the Treasury.
HENRY MCKINLEY.

Signed, sealed, and delivered, in the presence of— GEORGE BRUCE,
JOHN RIVE,
M. WALLACE.

Approved: JAMES MADISON.

Extract of a letter from David Shriver, junior, to the Secretary of the Treasury, dated

WESTMINSTER, Jan. 14, 1812.

I hope the enclosed report will be found such as was required. Should any part be found improper, I will thank you to return it to me, at this place, with your remarks; or, should it be thought best that I should again attend at the city, you will please direct me; my reason for pointing out the probable cost of the ten miles, is, that Congress might know what sum would complete the road to any particular point.

The small sum wanting, in addition to the balance that will remain unexpended, to enable them to make the road across Meadow Mountain to Tomlinson's, (which would be eleven miles in addition,) Congress ought to give. The road then would be very beneficial to the public; whereas, if we stop at the end of seventeen or eighteen miles, it will be of little or no service, ending in a wilderness instead of a settlement, and in a tolerable level country, where persons from various points might travel to it. This small sum would likewise enable us to keep the hands, now on the work, in employ; a great number of them have families, and have moved on the work at considerable expense, which has, in a number of instances, been paid by the contractors, and the poor people, yet indebted, some of them, considerably, should they be obliged to leave the work, it would, in my opinion, be difficult to gather them again.

The Legislature of this State has passed a law to establish a bank at Cumberland. The stock is to be subscribed on the first of April next. This bank will remove one difficulty, which has always been an important one with me.

I shall leave this place for the road as soon as there is any prospect of being able to go on with the work.

JANUARY 14, 1812.

SIR: It being required by law that a statement should be submitted to Congress at each session, I have considered it my duty to give a concise view of the progress and present state of the Western road under my superintendence, with such additional observations as arose out of the subject.

The levelling and shaping the bed of the road is complete, with a few exceptions, for about five miles; the stone for the pavement laid on a greater

Extension of Patent Right.

part thereof, and about four miles broken so as to be nearly complete. Such being the present state of the work, the probability is, that the ten miles will be completed within the time limited by contract, the 1st of August next.

The expense of mason-work, bridging, lime, &c., cannot, at present, be exactly ascertained, but is expected, when added to the contracts, will make the entire cost of those ten miles about \$75,000.

Should it be finally determined to roll the road, and gravel or sand it, the cost will be, in addition to the above amount, rolling about thirty dollars per mile, gravelling or sanding, where either of those articles can be conveniently had, about one dollar per perch in length of the road.

The whole of my attention being absolutely required on the work in hand, I have not been enabled to acquire sufficient information of the next ten miles, so as to speak with precision, but have viewed the location, and made such an estimate as circumstances would admit, by which it appears that the expense will be nearly the same.

No alteration or addition to the law has suggested itself, as absolutely necessary, except some provision for keeping the road in repair, after it shall be received from the contractors; for, on turnpikes which pass over a more level surface, that have time to settle and become firm, and on which constant repairs are made, it has, notwithstanding, been found difficult, at certain seasons of the year, to keep them in good order. The present road passing over ground so broken, subject to the wash of large quantities of water discharged from steep valleys adjoining, as well as the operations of the seasons upon it in its green and unsettled state, and the great use which, from its local situation, will immediately be made of it, will, when taken into view together, present to the mind the state in which it will very soon be, if left to the free and unrestrained use of all, without attention and without repair.

I would respectfully suggest the propriety of demanding such a toll as will be sufficient to keep it in good and perfect order. I am, &c.

DAVID SHRIVER, Jr.

HON. ALBERT GALLATIN,
Secretary of Treasury of the U. S.

EXTENSION OF A PATENT RIGHT.

[Communicated to the House, April 20, 1812.]

To the Honorable the Senate and House of Representatives in Congress assembled, the memorial of Eli Whitney respectfully sheweth :

That your memorialist is the inventor of the machine with which the principal part of the cotton raised in the United States is cleaned and prepared for market. That, being in the State of Georgia in the year 1793, he was informed by the planters that the agriculture of that State was unproductive, especially in the interior, where it

produced little or nothing for exportation. That attempts had been made to cultivate cotton, but that the prospect of success was not flattering. That of the various kinds which had been tried in the interior none of them were productive, except the *green seed cotton*, which was so extremely difficult to clean as to discourage all further attempts to raise it. That it was generally believed this species of cotton might be cultivated with great advantage, if any cheap and expeditious method of separating it from its seeds could be discovered, and that such a discovery would be highly beneficial both to the public and the inventor.

These remarks first drew the attention of your memorialist to this subject, and, after considerable reflection, he became impressed with a belief that this desirable object might be accomplished.

At the same time he could not but entertain doubts whether he ought to suffer any prospect of so precarious a nature as that which depends upon the success of new projects to divert his attention from a regular profession.

About this time Congress passed a new patent law, which your memorialist considered as a premium offered to any citizen who should devote his attention to useful improvements, and as a pledge from his country that, in case he should be successful, his rights and his property would be protected.

Under these impressions your memorialist relinquished every other object of pursuit, and devoted his utmost exertions to reduce his invention, which, as yet, was little more than a floating image of the mind, to practical use; and, fortunately for the country, he succeeded in giving form to the conceptions of his imagination, and to matter a new mode of existence; and the result of this new modification of matter was everything that could be wished.

After reducing his theory to practice, by effectual and successful experiments, your memorialist took out a patent. So alluring were the advantages developed by this invention that, in a short time, the whole attention of the planters of the middle and upper country of the Southern States was turned to planting the green seed cotton. The means furnished by this discovery, of cleaning that species of cotton, were at once so cheap and expeditious, and the prospect of advantage so alluring, that it suddenly became the general crop of the country.

Little or no regard, however, was paid to the claims of your memorialist; and the infringement of his rights became almost as extensive as the cultivation of cotton. He was soon reduced to the disagreeable necessity of resorting to courts of justice for the protection of his property.

After the unavoidable delays which usually attend prosecutions of this kind, and a labored trial, it was discovered that the defendants had only used, and that, as the law then stood, they must both make and use the machine, or they could not be liable; the court decided that it was a fatal, though inadvertent defect in the law, and gave judgment for the defendants.

Culture of the Tea Plant.

It was not until the year 1800 that this defect in the law was amended. Immediately after the amendment of the law, your memorialist commenced a number of suits; but so effectual were the means of procrastination and delay, resorted to by the defendants, that he was unable to obtain any decision on the merits of his claim until the year 1807; not until he had been eleven years in the law, and thirteen years of his patent term had expired.

A compromise has been made with several of the States, to which your memorialist has assigned his right, and relinquished all further claim; but from the State in which he first made and introduced his invention, and which has derived the most signal benefits from it, he has realized nothing; and from no State has he received the amount of half a cent per pound on the cotton cleaned with his machine, within that State, in one year.

Estimating the value of the labor of one man at twenty cents per day, the whole amount which has been realized by your memorialist for his invention is not equal to the value of the labor saved in one hour by his machines, now in use, in the United States.

Permit your memorialist further to remark that by far the greatest part of the cotton raised in the United States has been, and must of necessity continue to be, the green seed. That, before the invention of your memorialist, the value of this species of cotton, after it was cleaned, was not equal to the expense of cleaning it; that, since the cultivation of this species, it has been a great source of wealth to the community, and of riches to thousands of her citizens. That, as a labor-saving machine, it is an invention which enables one man to perform, in a given time, that which would require a thousand men, without its aid, to perform in the same time. In short, that it furnishes to the whole family of mankind the means of procuring the article of cotton, that important raw material which constitutes a great part of their clothing at a much cheaper rate.

Your memorialist begs leave further to state that a confident expectation that his case would be embraced in the general law which Congress has, for several years, had under consideration, has prevented his making an earlier application. That the expenses incurred by him, in making and introducing this useful improvement, and establishing his claim to its invention, have absorbed a great proportion of what he has received from those States with which he has made a compromise. That he humbly conceives himself fairly entitled to a further remuneration from his country; and that he ought to be admitted to a more liberal participation with his fellow-citizens in the benefits of his invention.

He, therefore, prays your honorable body to take his case into consideration, and authorize the renewal of his patent, or grant such other relief as Congress, in their wisdom and their justice, may deem meet and proper.

ELI WHITNEY.

WASHINGTON, April 16, 1812.
12th CON. 1st SESS.—69

CULTURE OF THE TEA PLANT.

[Communicated to the House, May 12, 1806.]

HAMPSHIRE COUNTY, VIRGINIA,
NEAR ROMNEY, May 13, 1812.

SIR: Supposing that an account of the introduction of any new species of agriculture might not be unacceptable to the Legislature of the United States, I take the liberty of sending you an account of the progress I have made in the introduction of the *tea plant*.

Some years ago my brother went to China, in the Pennsylvania packet from Philadelphia, and had the good fortune to procure several of the scions, or young shoots, of the tea plant, together with directions for curing the tea. As I was at Philadelphia at the time of his return, he made me a present of the plants, which I accordingly brought here and introduced on my farm. The two first years I paid no attention to its culture: but last year, having more leisure, I took the trouble to transplant fifty or sixty twigs, and in October to gather and preserve the leaves according to the written directions I had from him. I found it to yield at an amazing rate, and the beverage which it afforded to be superior to the best imported tea. Perhaps this may be owing to their losing their fine flavor by crossing the sea. The leaves when green are more excellent than when dry. I had first supposed that the plant would thrive best in warm, rich situations, but, on transplanting, I put some in cold, poor situations, and these yield by far the most plentiful crop. You may cut any number of twigs off the tree, or plant, and just stick them in the ground; they will take root and grow. And I have been thinking that in eight or nine years my little nursery (by clipping the branches and planting them again) might be made to afford plants enough to supply the whole United States with tea, and that at a trouble and expense which would be scarcely perceptible.

As my wagon is going down to Alexandria, I have filled a large box with earth, in which I have planted a number of the twigs, and to each of them tied a label or directions for raising the plant, and curing the leaves in the same manner as I got it from my brother; the whole of which I have directed to be left with Mr. Gray, bookseller, of Alexandria, and to be by him delivered to you or your order.

I have acted in this manner from a supposition that many of the members might be desirous of seeing this newly introduced plant, and perhaps wish to convey some of them to their places of abode, or have them planted in botanic gardens. My reason for addressing this letter to you was that I supposed it more particularly your province than that of any other man to make the subject known to the House.

If it will be attended to, I make no doubt of the tea plant becoming a grand acquisition to the American nation, and the consciousness of hav-

Report on the Patent Office.

ing rendered my country a small service will be a sufficient reward for

Your very humble servant,

JOHN S. GRIMES.

Hon. HENRY CLAY, *Speaker House of Reps.*

P. S. If no accident occurs, my wagon will leave the plants at the aforementioned place about the last of this month.

J. S. G.

PATENT OFFICE.—HOME DEPARTMENT.

[Communicated to the House, June 12, 1812.]

Mr. SEYBERT made the following report:

The committee to whom was referred the resolution directing them "to ascertain the number of persons employed in, and to inquire into the state and condition, of that branch of the Department of State wherein are preserved the models of machines for which patents have been granted by the United States, and whether any, and what, fees have been demanded by the clerks therein," beg leave to report, in part:

That, on the 25th day of May, 1812, your committee addressed a letter to the Secretary of State on the subject, and, on the 10th of June, 1812, received his answer, with sundry accompanying documents; all of which are herewith respectfully submitted.

Your committee accord with the Secretary of State in the opinion, that every institution ought to be comprised within some one of the departments of Government. They need not repeat the reasons assigned in his letter, and they deem any additional arguments unnecessary. That the Secretary of State must be, at all times, much occupied with the foreign concerns of the United States, must be evident to every member of the Legislature; and that our foreign relations are, in many respects, essentially distinct from many objects in the interior of our country, which are attached to the duties of this officer, must be equally apparent. These last must increase every year with the improvements and extension of our settlements; such must be the avoidable result. Your committee, without entering into any detailed reasoning on the subject, offer, for the consideration of the Legislature, the propriety and necessity of authorizing a *Home Department*, distinct from the departments already established by law. Such departments are known to other Governments, and their benefits have been recognised in territories far less extensive than those of the United States. Your committee regret that, from an expectation of the short continuance of the present session of Congress, they cannot enter more at large into this subject, so as to urge its consideration with that weight of argument which it deserves; they will content themselves, at this time, with the bare suggestion of Legislative interference being necessary.

The Secretary of State has remarked that it would be proper to extend the privilege of franking letters to the person who may be appointed to

superintend the concerns of the Patent Establishment of the United States. Of this your committee are well satisfied. The Secretary of State is much occupied in receiving, reading, and franking letters, which he ultimately must refer to the clerk of the Patent Office. No advantage can arise from this regulation, and it is apprehended no serious evils can follow the alteration herein contemplated.

Your committee have inquired into the conduct of the clerks employed in the establishment, respecting their demand for or receipt of fees, and they are satisfied that no causes exist which can attach suspicion to their conduct in this respect. They have not been able to trace an instance where the clerks proceeded contrary to the established law on this subject. Mr. Lyon has, for some time past, been employed as an assistant clerk in the Patent Office: your committee are convinced that his services are necessary, and that he has performed his duty with propriety, without receiving a compensation for the last year; it is, therefore, recommended to Congress to pass the bill reported by the Committee of Claims for his relief.

The gross amount of fees received from the commencement of the establishment to the 31st of December, 1811, per statement B, is \$49,110. Of the sums received, after deducting the amount paid for salaries to a clerk, and the moneys necessarily expended for parchment, stationery, printing, fuel, &c., there remains a balance of \$25,379 34 in the Treasury of the United States, applicable to useful purposes connected with this institution. The statement B demonstrates that the amount annually received for patents issued has increased every succeeding year, and that, in the year 1811, it amounted to \$6,810. From these facts your committee augur favorably as to the future. The office has done much more than to support itself: the fund thus created, if properly managed and applied, may hereafter give rise to many valuable institutions in our country. A *school of arts* may be organized by the Legislature, which will require no other pecuniary aid than will be contributed by the industrious, the ingenious, and the useful citizens of the United States.

The resolution submitted offers an extensive and fruitful field for inquiry in a national view. Your committee have ventured to trespass on the ordinary limits of a report, by entering into such details as the case admitted, and the importance of the subject demanded; they are of that class who consider a *well regulated conservatory* of the arts a highly useful institution. It may be well to ask, what is the design of a *depot* of the models for which patents are granted? Idle curiosity alone cannot have induced the wisest Governments to take them under their special charge; if useful results had not been the consequence of such establishments, they would long since have been abandoned. In Europe experience has developed the numerous benefits which are derived from this source every year. In the subsequent part of this report your committee persuade them-

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selves they will lay before the Legislature such details and facts, connected with our country, as will characterize the institution "a register of human industry and ingenuity." They anticipate the period when this *depot* will constitute the basis of a *school of arts*, from whence shall emanate every class of useful citizens. In this school all children may be taught some useful trade, to the end that none may be idle, but the poor may work, and the rich, if they become poor, may not want. Your committee made a visit to the present establishment: for its various purposes the West wing of the second floor of the building, heretofore denominated Blodget's hotel, is allotted to the models. This portion of the building consists of four apartments, one of which is 56 feet by 39 feet; another 39 feet by 22 feet; the remaining two rooms 22 feet by 12 feet each, with ceilings well adapted for the purpose. Your committee propose that the two first mentioned rooms shall be appropriated solely for the placing and exhibiting of models; one of the smaller rooms to be occupied as an office by those who conduct the institution; and the other to be used for a library, to be formed of such books as may be deposited to secure the copyright, for charts, &c.

The apartments are, at this time, in an unfinished state; workmen are employed to complete them; a sufficient appropriation for this purpose has been already made by Congress. Many models are already deposited; the manner in which they are placed tends to confusion, and sink the establishment into contempt. All is chaos—the machines are out of repair, and so intermixed as to make them almost useless. Useful machines are thus kept from view; and, for the want of a proper catalogue, containing a general description of the models, they are not understood. By such means the most beautiful inventions have been brought to ridicule. The despatch, safety, and success of business is promoted by nothing so much as method and regularity. Every visitor ought to be able to derive benefit from this *depot*: this can only happen where method is attended to. The subjects of this establishment admit of classification, according to fixed and established principles: all the apparatus used in distillation, the machines for cutting nails, for cutting files, for ginning, carding, roving, drawing, spinning, weaving, &c., should be contiguous to each other, and arranged according to the date of the patent. Placed in this manner, there would be a mass of knowledge embodied before the spectator; the arts would be easily traced; the machines would thus be advertised, as it were, and every one would go away much more informed than when they went into these apartments. The present prevalent confusion in some degree depends upon circumstances; when the machines were formerly deposited, near the Department of State, the room was much too limited; the machines were heaped together, and many of them were deranged in their several parts. The unfinished state of the present building will keep the models for a further time in a state of irregularity: it

is to be hoped that habit will not operate to make this perpetual. Success in this institution depends much upon the competency of the person or persons who are to conduct it; they should be liberal in all their views; nowise ambitious to become patentees themselves; no jealousies should exist between them and inventors; to the latter every facility should be offered, and every aid given; because, often they are men of limited knowledge, and need the assistance of others in their specifications, &c. Under such guidance the institution will be promoted, and useful knowledge diffused throughout our extensive country.

To impose upon ourselves the task of proving the utility of this institution may, to many, appear idle and unnecessary. We have determined on the inquiry, and solicit your indulgence on the subject. By the acts which Congress have passed, relative to patents, it is indirectly provided that such a *depot* shall be formed. In the United States no patent can issue to guaranty a mere principle, it "must be for the vendible matter;" hence the necessity of a conservatory to prove the facts in disputed cases; the act further requires models to be deposited, in such cases as the Secretary of State shall deem necessary. The arts have ever been patronised and protected by civilized nations; the ancient Republics bestowed much upon the fine arts; at this time our object should be to promote those which are termed useful. Though we cannot but admire the taste and genius of a Pericles, or a Phidias, we deem it more consistent with the state of society and manners, in the United States, to mark with distinguished honors an Arkwright, a Bolton, a Watt, a Wedgewood, a Whitney, a Fulton, a Whittemore, an Evans, and a host of others, who compose the class of benefactors of the human race; their inventions not only astonish and confound by the intricacy of their structure, and the delicacy of their execution—they do more, they enrich a people, and constitute the formidable pillars of national independence; useful machinery excite human industry, circulate capital, expand the wings of commerce, and carry us to the remotest regions of the habitable world. The progress of the arts of civilization keep pace with each other; the arts are favorable to civil liberty; they alone give rise to internal improvements; and that nation is, of all others, the most certain of prosperity, by which these principles are well understood, and put into practice. America cherishes peace; circumstances may force her into a war; even in that state of things her arts will achieve more lasting advantages for her than did the conquests of Alexander, a Cæsar, or a Zengis Khan!

Useful inventions of machines are more particularly necessary at this time in the United States, when much may depend upon our manufactures; all labor-saving machines add so much to our population. We need not dread that riot and famine will follow the introduction of such agents into our work-shops; we should do all in our power to encourage their importation from abroad. In this respect England is an example worthy of imitation; whilst tyranny and oppres-

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sion, from mistaken notions of policy, were operating with an iron hand upon the industrious in Flanders and France, England did all in her power to invite their emigration; every encouragement was given to them, and many advantages were offered; by such means did she establish her power and wealth, which at this time, is gigantic, and threatens neutrals and herself with annihilation, from its misapplication. Our inventions keep pace with our necessities. It is not long since we dreaded the want of blankets. American genius has suggested a simple method by which a single workman can furnish twelve *per diem*. Almost every department of the mechanical arts was languishing for the want of files: several machines have been lately invented for cutting these highly useful instruments; with one of them a single workman may make several hundred files per day; which may be sold at prices much below the imported. Who, with a knowledge of facts like these, can deny protection and security to the useful arts? Such inventions will do more for the nation than can be effected with armies and fleets; it is certain fleets and armies cannot be supported without them.

We shall now give a short historical sketch of the subject in Europe, and then trace its progress in the United States. Two centuries have elapsed since Henry IV of France conceived the great design of a conservatory of models of whatever was curious or useful in machinery, "that all those (to use the language of Sully) who aspired to perfection might improve themselves without trouble in this silent school." The death of Henry put a stop to the execution of this scheme; in it he was followed by other Monarchs, and none with more zeal than those of France. In modern times we may refer even to the dark pages of revolutionary France, for many proofs of the devotion of that nation to this highly useful branch of knowledge, and at the present period the useful arts are well understood and cultivated with much success throughout the empire; liberal rewards are offered by that Government for such inventions as may prove of national benefit. The enormous sum of \$183,332 is offered as a premium for a machine which will prepare and spin flax in as perfect a manner as is done with cotton; the ingenious of all nations are invited to be competitors for this prize; the Emperor has this department under his own direction, and no patent is granted "without a special decree from Napoleon;" this arrangement gives consequence to the establishment; not content to stop here, a professor is appointed especially to deliver lectures on machines; he discourses on the models generally, and at stated periods accompanies his pupils to observe machines in the different workshops of Paris and its vicinity; the operations of the various manufactures are demonstrated, and a general discussion of all the principles, which are connected with the useful arts, is entered into and exemplified by practice. This institution furnishes annually a considerable number of useful members of society. In the establishment just alluded to, persons are em-

ployed, whose duty it is to form models of all such valuable machines as are deposited; these are on a regular scale, and accurate in the proportions of the several parts, so that the model will move correctly, and produce effects proportioned to its size; machines may be made from these of any dimensions. In France schools for instruction in every art and science are diffused throughout the empire; no useful branch is neglected. The teachers are numerous, and each institution has a fixed number of pupils, who are supported at the expense of Government; they are taught to arrange, plan, and execute all the operations which can be of use to the nation; in cases of emergency that empire may draw upon this capital stock for useful men of every description, whether it be in philosophy, the various mechanical arts, the military art, &c. If the United States was equally prepared at this momentous period, much expense would have been saved to the nation, and much trouble to the Government; we repeat it, a school of arts is essentially necessary to our country. In the German schools they have professors, whose duties are like to those in France; at Gottingen Professor Beckman, the author of three volumes of the History of Discoveries and Inventions, was employed. In England, in the Royal Institution they take a proper notice of this subject, and no one has ever visited the depot of models at the Adelphi, without much pleasure and instruction. In Britain, where great distinctions are made in society, many persons occupy themselves with the useful arts, whose rank would seem to forbid it; several noblemen of distinction have patented useful inventions. If, then, all other nations deem it wise and essential to bestow favors in this way, shall it be said that, in the territories of the only free Republic of modern times, the arts were ridiculed and neglected? This can never be the case with those who understand the true interests of the State; the national genius forbids it, and nothing can stifle this infant Hercules of the United States. No nation can boast of more useful inventions than those of the people of the United States; we might bring to recollection many, which alone could have resulted from the exercise of genius of a superior order. Rittenhouse contrived and set a world in motion. Whitney furnished us with a simple machine by which the people of a world are enriched and made happy. In obedience to the resolutions passed by the House of Representatives of the United States, the Secretary of State has reported that, from the 31st day of July, 1790, when the first patent issued from the office, to the 31st day of December, 1811, inclusive, one thousand six hundred and thirteen patents have been granted; of these two hundred and fifteen were for inventions patented in the year 1811. During the present year, (May, 1812,) one hundred and twenty one patents have been already delivered; twenty are in preparation, and twenty more are suspended for the want of proper and suitable specifications; for several years past the number has increased annually, and an annual report of them has been

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directed to be made to Congress. This review of the progress of the arts is highly gratifying to us as citizens of the United States; we now see them flourish in situations where the footsteps of the savage have been scarcely obliterated by the busy scenes of civilized society; establishments are multiplying in all directions; nothing but time and proper encouragement are wanting to bring them to perfection. Superficial observers, and persons who are not accustomed to study, are apt to treat this subject lightly, and sink it into contempt; they undervalue inventions of every kind, and consider them more the results of chance than of mighty conceptions and painful thought; the sight of a steam engine in motion must convince the intelligent observer that the conception which gave rise to this stupendous monument of human invention, is too vast for ordinary comprehensions; persons thus disposed know little of the human mind; experience has not taught them the evils resulting from restless nights, and the many disappointments which await projectors; they often exclaim, what necessity or justice in granting rewards for discoveries? They say it cost nothing to effect the object; such persons have minds too limited to conceive a brilliant idea, too callous to receive a delicate impression, and a heart too cold to reward original genius. It is a habit with some to despise the knowledge of others. In answer to these declaimers we will offer the remarks of Burgh; he says, when treating of projects and schemes, "there is not one of a hundred that ever succeeds at all, nor one of many hundred that brings their inventors anything but disappointment and ruin. So that, we observe accordingly, whoever projects anything new in science, in mechanics, or in trade, seldom does more than open the way for others to profit by their ingenuity." Notwithstanding experience has proved these statements beyond contradiction, many deny to inventors ordinary justice. They do not require of you to yield your privileges or property to them; they request of you, to "do as you would be done by," and only to confirm them in that which has already been made theirs by the sacred decrees of the Great Creator of the universe. Too often do persons take advantage of the inventions of others, and deny them compensation; they are considered as common property. It is with difficulty that the case is brought to a decision before a court of justice, and not unfrequently the expediency of awarding in favor of the plaintiff is too well maintained by a jury of interested persons. Our court records furnish too many instances of this kind; it becomes us to guard against them, in future, by a modification of the statute of the United States, which shall unequivocally secure to inventors their discoveries and inventions.

Before the adoption of the present Constitution of the United States, the several States, as sovereign Powers, granted patents. The framers of the Constitution deemed this an object worthy their protection; and amongst the powers delegated by them to Congress, we find that "to

promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors the exclusive right to their respective writings and discoveries." Congress, pursuant to the recited Constitutional provision, enacted a law on the subject, February 21, 1793; another April 17, 1800; and, during their present session, these several acts are under consideration, to be revised and amended, according as experience may have made it necessary. By these acts the fees which are directed to be paid by the patentee are inconsiderable—not one-fifteenth of the amount which is paid in Great Britain. It never was contemplated to derive a revenue from this source; the original intention was to make the amount received sufficient to cover the expenses of the institution. The statements herewith exhibited prove that a surplus fund has accumulated in the Treasury applicable to such purposes as the Legislature shall direct.

We do not hesitate to acknowledge that patents have often issued for inventions apparently trivial and ridiculous. On this ground many object to the institution. Reflection will remove this difficulty. The patent costs the State nothing, and from trifling causes wonderful consequences have ensued. Newton, from observing the falling of a pear, deduced his brilliant theory of gravitation; and no year passes in which the principle inherent in a trifling machine does not give rise to many valuable applications. You cannot limit in this respect: the Constitution guaranties to every one his original inventions. And no harm can result from this practice; the patentee can alone be disappointed in his expectations. No one will purchase that which he deems useless; and a very few, indeed, speculate so far as to give premiums for inventions without having previously seen their promised advantages demonstrated by practice. England sets a high value on objects of this kind. She encourages the introduction from abroad of every useful machine; and she prohibits, under heavy penalties, the exportation of such as are useful in her manufactories. In the year 1774, an act was passed "to prevent the exportations of utensils employed in the cotton manufacture" in England. Any person going from Great Britain, and who carries with him the tools and instruments of any useful art or manufacture peculiar to his native country, "must be deemed a traitor."

We can defend this branch of knowledge upon the ground of an enlarged and wise policy. Our supplies of clothing and other articles have been generally derived from British manufactories. That nation has made us tributary to her workshops, in common with the rest of mankind. This system has been carried so far as to affect the independence of the United States. We may soon be engaged in a war with that Power: propriety and necessity combine to carry us into other channels. We need not leave our shores for this purpose. Unlike Great Britain, our agriculture furnishes us more food than we can consume, and yields us the raw materials from which that most dependent of nations has been

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heretofore supplied. We only need labor-saving machines to form these into the fabrics which habit, comfort, and fashion, have made necessary in civilized society. Some say this is impossible. They do not know that the greatest changes in this way have taken place in England within the last thirty years! A revolution is at this time about to take place, by which all nations will free themselves from the shackles which heretofore bound them to Great Britain, and allowed them but a nominal independence. This revolution can alone be perfected by the agency of the useful arts. Great Britain is dependent upon foreign nations for eight-tenths of the raw materials which are used in her manufactures; and the few which she derives from her internal resources are forbid to be exported. As an indulgence in this respect, in the year 1777 it was enacted by Parliament to permit "the exportation of tobacco-pipe clay," it being necessary to the sugarmakers in the West Indies. All American trade has concentrated in England, whether it be to the Mediterranean, the Euxine, or the Baltic. Thus have we contributed much to the support of British fleets and armies for many years past. The great pressure occasioned by the enormous national debt of Great Britain, and the increase of the annual taxes, may cause distress, turbulence, riot, and bankruptcy—even a change of the present dynasty may be the consequence. All these circumstances combined will not effect the reduction of that gigantic Power. Changes like these experience has proved are only changes of men in power; the nation still remains compounded of the same mass, with her capital and skill undiminished, which, by a judicious system of reform, will secure to her power and wealth. England can only be seriously affected by striking a severe blow at the roots of her industry, the great base upon which her security is founded. A war against Great Britain will be inefficient, if carried on solely by your armies and fleets. By paralyzing her arts and manufactures you destroy her vitals. The heart will be seized by a canker which will render the extremities inefficient and useless.

The effects and benefits, in a national view, resulting from the introduction of useful labor-saving machines may be traced and demonstrated in the rise and progress of the British cotton manufacture. Not longer ago than the year 1755, the cotton manufacture in England was considered "amongst the humblest of the domestic arts." The products were chiefly for home consumption. Machinery in this branch was then unknown. In the year 1750, twenty thousand persons only were employed in this way: little progress was made for several succeeding years. In the year 1806 they declared, "there is scarcely a civilized nation on the earth that is not indebted to us for some article of this manufacture." Some Manchester manufacturers have furnished as many as two thousand different varieties of patterns on their cards for the continent of Europe.

In the year 1705 not more than 1,170,881 lbs. of cotton wool was imported into England; in

the year 1781 it amounted to 5,101,920 lbs.; in 1810 to the enormous and incredible quantity of 135,000,000 lbs. This last fact we state upon the authority of Sir Robert Peel, the most extensive cotton manufacturer in Great Britain.*

In the year 1797 the cotton branch took the lead in the manufactures of Great Britain, and continued to advance until the American and continental markets, from motives of policy, were shut against them. In the year 1809 it was calculated that this branch of industry, in Great Britain, gave employment to 800,000 persons, and that the annual value thereof amounted to £30,000,000, or \$132,000,000! The United States, for many years, received more manufactured articles from Great Britain than the whole of Europe taken together. The following statements are given from Sir F. M. Eden's Letters on British Manufactures and Commerce:

<i>Years.</i>	<i>Exports to Europe.</i>	<i>Exports to the U. S.</i>
1795,	£4,222,782	£4,892,572
1796,	4,497,683	5,835,640
1797,	3,732,830	4,871,316
1798,	3,981,650	5,313,068
1799,	4,543,608	6,696,221

England has no advantage peculiar to herself; the introduction of useful machines gave her pre-eminence; machinery enabled the people of England to sell their manufactured articles at reduced prices, and to undersell all other nations. In the year 1762 cylinder cards were first made use of by Mr. Peel. In 1767 James Hargrave made the first great improvement in the spinning of cotton by means of machinery; and Arkwright's first patent for spinning cotton, by means of rollers, was obtained in 1779; the machine was put in motion by the application of horse power; in 1771 water was employed, and now that of steam is in general use. Improvements in this art have been carried so far, "that a pound of fine cotton has been spun on the mule into 350 hanks, each hank measuring 840 yards, and forming together a thread 167 miles in length!" A single pound of cotton yarn, in England, has commanded the extravagant price of five guineas; so much has machinery added to the original value of the raw material, which, on an average, may be rated at twenty cents per pound. England, from these causes, progressed more in the last fifty years of the eighteenth century than she did in any equal number of years in any former century. In the time mentioned, the most useful inventions were brought to light, and made perfect; with the arts the nation flourished, and assumed the form of a political *Colossus*.

We need not abandon our country to seek for examples where a nation has been benefitted and enriched by the genius of her citizens; we could specify many instances of the kind; on this occasion, however, we will content ourselves with a consideration of that of Mr. Eli Whitney, a native of the State of Massachusetts. It is to his cotton gin that many in the United States owe their wealth and comforts; but for this, or some equivalent instrument, poverty, barrenness, and

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waste, would infest an extensive and valuable portion of the United States. The opinion of Judge Johnson, an inhabitant of South Carolina, is too appropriate to be omitted; in deciding in the case of *Whitney vs. Carter*, he proceeded: "With regard to the utility of this discovery, the court would deem it a waste of time to dwell long upon this topic. Is there a man who hears us who has not experienced its utility? The whole interior of the Southern States was languishing, and its inhabitants emigrating, for want of some object to engage their attention and employ their industry, when the invention of this machine at once opened views to them which set the whole country in active motion. From childhood to age it has presented us a lucrative employment. Individuals who were depressed with poverty, and sunk in idleness, have suddenly risen to wealth and respectability. Our debts have been paid off, our capitals increased, and our lands are trebled in value. We cannot express the weight of obligation which the country owes to this invention; the extent of it cannot now be seen." Edwards, in his *History of the West Indies*, says the green seed cotton offers many advantages to the manufacturer; but, for the want of a proper instrument to separate the wool from the seed, "the value of the commodity is not equal to the pains that are requisite in preparing it for market." Before the gin was invented, this species of cotton was only cultivated for domestic purposes, and for supplying wick for the lamps that are used in sugar boiling. Formerly, cotton wool was imported into the United States; that obtained from the British West India possessions, on an average of three years from 1768 to 1771, amounted to one hundred and sixty-seven thousand seven hundred and forty-eight pounds; and from other places, two hundred and sixty-six thousand one hundred and eighty-two pounds. In 1783, after the peace with Great Britain, it was proposed we might furnish ourselves with the necessary quantity of cotton wool from the Dutch settlements at Surinam; no one then imagined it could be cultivated in the United States to be made an object of commerce. In 1791 it was proved that cotton might be cultivated to advantage in the United States; in this same year nineteen thousand two hundred pounds, the growth of the United States, was shipped to Europe, and the want of a machine to separate the wool from the seed was soon found to be essentially necessary. But for the invention of Whitney, which was brought to perfection in the year 1793, the United States would have continued to be importers of this article. The annual quantity made increased every year, until, in 1810, we exported, of the growth of the country, ninety-three million two hundred and sixty-one thousand four hundred and sixty-two pounds, of which quantity eighty-four millions six hundred and fifty-seven thousand and seventy-eight pounds, only, were Sea Island or long staple. Besides the quantity exported, sixteen million pounds of the short staple are annually consumed in our country, which give an annual crop of one hundred million

pounds. This, at fifteen cents per pound, presents us with an annual income of fifteen million dollars. If the saw gin of Whitney had not been brought to light, the green seed cotton could only be cultivated by those planters who have a superabundant number of laborers on their plantations, to give them employment at times when they otherwise would have gone idle. Sea Island cotton can only be raised in a very limited district of the Union, and it is not so fit for all purposes as the other species. By hand, an industrious man may pick one pound of cotton per day; a machine of a moderate size, attended by a boy to feed it, will do the same for one thousand pounds per day. Horse, water, or steam power may be applied; one man may readily attend ten of these; the quantity they would furnish for packing is incalculable. The facts we have just stated are known to all our cotton planters; such of them as are connected with commerce, are derived from the Treasury reports and books of authority on the subject. We could mention many other instances where valuable machines have benefited the United States; this is considered superfluous. Your Committee, for the reasons which they have already assigned, must remain satisfied with offering this report, in part, for the present; had time and circumstances permitted, they would have presented for your consideration a detailed system, with rules and regulations for its execution; they indulge in the hope to furnish these at a more suitable time.

ADAM SEYBERT, *Chairman.*

COMMITTEE ROOM, May 25, 1812.

SIR: The following resolution was adopted by the House of Representatives viz:

"Resolved, That a committee be appointed to ascertain the number of persons employed in, and to inquire into the state and condition of, that branch of the Department of State wherein are preserved the models of machines for which patents have been granted by the United States, and whether any, and what, fees have been demanded by the clerks therein."

The Committee have instructed me to request of you any general observations which you may think proper to communicate respecting the patent establishment of the United States; whether any necessary alterations in the act authorizing the establishment have suggested themselves to you; the amount of fees authorized by law; and if any instances are known where extra fees have been demanded or received by the clerks, or persons employed in that branch of the Department of State;

What has been the gross amount of fees received for patents granted from the commencement of the establishment to the 31st day of December, 1811; what amount has been expended in support of the establishment; whether a separate account is kept of the moneys received and expended for the establishment; is there a balance unexpended; if so, what is the amount thereof?

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The Committee regret, at this time, to give you the trouble imposed by the above queries, because they are convinced other objects, more immediately connected with the Department of State, demand your serious attention; nevertheless, this occasion may enable you, by a proper representation, to separate the patent establishment from the Department of State, and to afford you an opportunity to suggest an organization more proper than the present for the depot of models. I have the honor to be, &c.

ADAM SEYBERT, *Chairman.*

HON. JAMES MONROE, *Secretary of State.*

DEPARTMENT OF STATE, June 10, 1812.

SIR: I have had the honor to receive your letter of the 25th ultimo, and regret that other duties of the office, particularly connected with the present state of public affairs, should have pressed so heavily upon me as to have rendered it impossible to give it an earlier answer.

Your inquiries point to two principal objects; first, the organization of the patent establishment; and, secondly, the conduct of the officers now employed in it, in respect to the fees which they have received for their services.

On the first head, the organization of the Patent Office, you wish me to state whether, in my opinion, some essential change in it might not be made with advantage, and, particularly, whether it ought not to be separated from the Department of State?

In meeting this inquiry, I am naturally led to examine another question, whether the Patent Office might not be independent of every Department of the Government, and amenable to the President only? If this is believed to be the case, its separation from the Department of State necessarily results from it.

I have always thought that every institution, of what nature soever it might be, ought to be comprised within some one of the Departments of Government, the chief of which only should be responsible to the Chief Executive Magistrate of the nation. The establishment of inferior independent Departments, the heads of which are not, and ought not to be, members of the Administration, appears to me to be liable to many serious objections, which will doubtless occur to you. I will mention the following only, first, that the concerns of such inferior Departments cannot be investigated and discussed with the same advantage in the meetings and deliberations of the Administration, as they might be if the person charged with them was present. The second is that, to remedy this inconvenience, the President would, necessarily, become the head of that Department himself, and thus be drawn into much investigation, in detail, that would take his attention from more general and important concerns, to the prejudice of the public interest.

Supposing the general organization of the Departments of Government to remain as they are, I am not aware that the Patent Office could, with more propriety, be attached to either of the other

Departments than to the Department of State. I must, however, observe that I am conscious that I have not been able, since I have had the honor of being employed in this Department, to pay to the Patent Office all the attention which it is, at all times, my desire to bestow on any portion of the public duties confided to me. The foreign concerns of our country constitute, in themselves, a sufficient trust for the person at the head of this Department. They are very extensive, complicated, and important, and are becoming more so daily. The growth and rising importance of the United States necessarily produce that effect, but the Department of State is also charged with a correspondence with the Territorial Governments, Governors of the several States, &c.

If the Patent Office remains attached to this Department, or is placed under either of the other Departments, I think that the person employed at its head ought to have the power of franking letters. It would save to the Secretary of the Department much time in receiving and forwarding letters to that office, and franking letters from him. The business of the Patent Office would also be much facilitated thereby.

These remarks, you will readily perceive, are written in too much haste to give that aid on the subject that I should be happy to afford.

I have to observe that I have inquired into the conduct of the officers employed in the Patent Office, respecting the fees they have received, and that I have cause to be well satisfied with it. The Committee will doubtless make further inquiry into the subject. I refer you to a statement on this point from Doctor Thornton, marked A. The fees allowed by law are confined to the Treasury fee of \$30, and the copying fees, mentioned in the eleventh section of the patent law, 2d vol. of the Laws of the United States, are twenty cents for every hundred words, and two dollars for the copy of every drawing.

The gross amount of fees received for patents, granted from the commencement of the establishment to the 31st day of December 1811, is \$49,110. The particular statement is given in the accompanying paper B.

I do not know of any expenditure in support of the patent establishment, except what may have been absorbed in the unfinished preparation of two rooms for the models in the hotel; but as these expenditures include also the repairs of the building, and preparations for the General Post Office, I can only give the aggregate sums expended, which amount to \$3,579 32. Whatever was expended previous to the removal of the office, was for stationery, cases, &c., which were in common with other objects of the Department of State, and paid for by the contingent fund. If the salary of Doctor Thornton should be considered as applicable, I enclose a statement of his salary till the end of the year 1811, C. Mr. Lyon's salary, from the first of June, 1810, to 1st of April, 1811, paid, amounts only to \$416 66.

There is no account kept in the Department of State of the receipts and expenditures of the patent establishment, because the fees are paid imme-

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diately into the Treasury of the United States, and an annual report made thereof, from which the statement B is taken.

In reply to your last inquiry, I beg leave to refer to the paper marked D. It may be proper to observe that, prior to the year 1802, the patents for useful inventions were made out by the clerks employed in the general business of the Department, and that, therefore, the expense to the public attending the issuing of them cannot be precisely stated. Since that period a more satisfactory estimate can be made; even this last estimate is founded, in part, on conjecture, as a separate account has not been kept of the stationery, fuel, &c., used in the Patent Office. I have the honor to be, &c.

JAMES MONROE.

The Hon. Dr. SEYBERT.

A.

I do solemnly affirm and declare, that, to the best of my knowledge and belief, Mr. Lyon has never demanded nor received any fees for business done in the Patent Office; nor has he ever demanded, to the best of my knowledge and belief, more than the law allows, viz: twenty cents for every copy of one hundred words, (see Laws of the United States, vol. 2, page 206, section 11,) and only for copies written in his private hours.

I do further solemnly affirm and declare, that I have been in public offices of the United States nearly eighteen years, and that I never received, while in any office to which a salary was attached, a single fee. I was appointed in 1794, by General Washington, a commissioner of the city of Washington, with a salary of \$1,600 per annum, and remained till the Board was dissolved by the Honorable the Congress. I was, on Mr. Adams's retiring from public life, appointed one of the justices of the peace, and confirmed by Mr. Jefferson. The fees of office I received as the laws allowed, (for there was no salary,) and I have continued to serve in that capacity till the present time; but during this service the Congress enacted a law that no magistrate of the United States should be entitled to a fee. On this every justice of the peace between the Capitol and Georgetown resigned, but myself; and though I supposed that the law could not affect those who were previously appointed, and the same opinion governed the conduct of others who took fees, yet so unwilling was I to do anything that could show the least inclination to violate what might be the intention of the Representatives of the people, that, from that moment, I refused to receive fees, and had the whole duties to execute, between the Capitol and Georgetown, which were exceedingly harassing; nor did I receive a single fee, during my services, for four years, except one, at the time a pauper was at my door, that I might give it to him. I was appointed in the latter end of the year 1802 to my present duties, by the present President, then Secretary of State, and, as the receipts of patents the preceding year did not much exceed \$1,400, I could not, with propriety, receive more; but the President, Mr. Jefferson, appointed me one of the Commissioners of Bank-

ruptcy, which he supposed, with my duties as a magistrate, would altogether give me \$2,000 per annum, at least. That office ceased in about a year and a half, in which time I did not, I believe, receive \$150; for, in many hard cases, I thought it only increasing distresses already sufficient, and I declined the fees. The duties of my present office have been increasing, till they have become truly oppressive, and require more aid.

The present President, when Secretary of State, thought me entitled to an increase of salary, before he left that office, and paid me the two last quarters, at the rate of \$2,000 per annum. The late Secretary of State made a representation to your honorable body in my favor, and wished that salary to be continued, which he gave in a memorandum from the 1st of June, 1810. (Original in the hands of the honorable Mr. Cheves, Chairman of the Committee of Ways and Means.)

The present Secretary of State has done me the honor not only to express this opinion to me, but likewise to the Congress, and he would have continued that salary to me, if his predecessor had, by a more explicit estimate, obtained sufficient funds from the Congress; but more assistance in the Department of State being required, the funds fell short, and, consequently, my regular salary, for some quarters back, was discontinued; and I can truly state that the consequent embarrassment has reduced me to the necessity of borrowing small sums for support, and at the same time I have returned many fees of five and ten dollars at a time; for I could not be induced, by any distress, to break through the rule that has always governed my official conduct, of never receiving a fee.

WILLIAM THORNTON.

B.

Statement of the fees received on letters patent.

1793.	For fees on letters patent	-	-	-	\$660
1794.	"	"	"	"	570
1795.	"	"	"	"	600
1796.	"	"	"	"	1,380
1797.	"	"	"	"	1,470
1798.	"	"	"	"	870
1799.	"	"	"	"	1,260
1800.	"	"	"	"	1,230
1801.	"	"	"	"	1,410
1802.	W. Thornton was appointed during this year	-	-	-	2,100
1803.	For fees on letters patent	-	-	-	2,910
1804.	"	"	"	"	2,670
1805.	"	"	"	"	1,710
1806.	"	"	"	"	2,400
1807.	"	"	"	"	2,850
1808.	"	"	"	"	4,860
1809.	"	"	"	"	6,690
1810.	"	"	"	"	6,660
1811.	"	"	"	"	6,810
					<u>\$49,110</u>

Extract from the books of this office:

For the Register, JOS. STRETCH.

TREASURY DEPARTMENT,

Register's Office, April 16, 1812.

Address of the Minority to their Constituents.

C.				
<i>To William Thornton, for his services in the Patent Office of the Department of State.</i>				
1803. January 6,	-	-	-	\$700 00
April 6,	-	-	-	350 00
July 6,	-	-	-	350 00
October 7,	-	-	-	350 00
				<u>\$1,750 00</u>
1804. January 6,	-	-	-	350 00
April 4,	-	-	-	350 00
July 11,	-	-	-	350 00
October 11,	-	-	-	350 00
				<u>1,400 00</u>
1805. January 3,	-	-	-	350 00
April 3,	-	-	-	350 00
October 17,	-	-	-	700 00
				<u>1,400 00</u>
1806. April 22,	-	-	-	700 00
July 7,	-	-	-	350 00
Nov. 11,	-	-	-	350 00
				<u>1,400 00</u>
1807. March 21,	-	-	-	350 00
April 18,	-	-	-	350 00
July 7,	-	-	-	350 00
October 15,	-	-	-	350 00
				<u>1,400 00</u>
1808. January 28,	-	-	-	350 00
April 19,	-	-	-	*350 00
July 16,	-	-	-	350 00
October 24,	-	-	-	500 00
				<u>1,550 00</u>
1809. January 11,	-	-	-	500 00
April 19,	-	-	-	500 00
October 18,	-	-	-	700 00
				<u>1,700 00</u>
1810. January 3,	-	-	-	342 50*
April 10,	-	-	-	350 00*
July 7,	-	-	-	399 98*
October 2,	-	-	-	500 00
				<u>1,592 48</u>
1811. January 4,	-	-	-	500 00
April 2,	-	-	-	500 00
July 10,	-	-	-	500 00
Nov. 2, (deficiency \$225)	-	-	-	275 00
				<u>1,775 00</u>

Extract from the books of this office:

For the Register, JOS. STRETCH.

TREASURY DEPARTMENT,

Register's Office, April 16, 1811.

D.

There has been received at the Treasury, as appears by the paper marked C, on letters patent for useful inventions, from the year 1793 to 1801, inclusive, the sum of - - - \$9,450 00

Expense attending the issuing these patents, supposed to be about - - - 7,357 00

\$2,093 00

Since the year 1802, when Dr. Thornton was exclusively charged with that business, to the end of the year 1811, there has been received - 39,660 00

* Deficiency in consequence of the want of appropriation, &c.

His salary, including what was paid a clerk, as an assistant, amounts to - \$14,373 66

Supposed expenditures incurred by the office for parchment, printing, &c. - 2,000 00

16,373 6623,286 3425,379 34

ADDRESS.

The undersigned, Members of the House of Representatives, to their respective constituents:

A Republic has for its basis the capacity and right of the people to govern themselves. A main principle of a Representative Republic is the responsibility of the Representatives to their constituents. Freedom and publicity of debate are essential to the preservation of such forms of Government. Every arbitrary abridgment of the right of speech in Representatives, is a direct infringement of the liberty of the people. Every unnecessary concealment of their proceedings, an approximation towards tyranny. When, by systematic rules, a majority takes to itself the right, at its pleasure, of limiting speech, or denying it altogether; when secret sessions multiply; and in proportion to the importance of questions, is the studious concealment of debate, a people may be assured that, such practices continuing, their freedom is but short-lived.

Reflections, such as these, have been forced upon the attention of the undersigned, Members of the House of Representatives of the United States, by the events of the present session of Congress. They have witnessed a principle adopted as the law of the House, by which, under a novel application of the previous question, a power is assumed by the majority to deny the privilege of speech, at any stage, and under any circumstances of debate. And recently, by an unprecedented assumption, the right to give reasons for an original motion has been made to depend upon the will of the majority.

Principles more hostile than these to the existence of Representative liberty, cannot easily be conceived. It is not, however, on these accounts, weighty as they are, that the undersigned have undertaken this address. A subject of higher and more immediate importance impels them to the present duty.

The momentous question of war with Great Britain, is decided. On this topic, so vital to your interests, the right of public debate in the face of the world, and especially of their constituents, has been denied to your Representatives. They have been called into secret session, on this most interesting of all your public relations, although the circumstances of the time, and of the nation, afforded no one reason for secrecy, unless it be

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found in the apprehension of the effect of public debate on public opinion ; or of public opinion on the result of the vote.

Except the Message of the President of the United States, which is now before the public, nothing confidential was communicated. The Message contained no fact, not previously known. No one reason for war was intimated, but such as was of a nature public and notorious. The intention to wage war and invade Canada, had been long since openly avowed. The object of hostile menace had been ostentatiously announced. The inadequacy of both our Army and Navy, for successful invasion, and the insufficiency of the fortifications for the security of our seaboard, were every where known. Yet the doors of Congress were shut upon the people. They have been carefully kept in ignorance of the progress of measures, until the purposes of Administration were consummated, and the fate of the country sealed. In a situation so extraordinary, the undersigned have deemed it their duty by no act of theirs to sanction a proceeding so novel and arbitrary. On the contrary, they made every attempt in their power to attain publicity for their proceedings. All such attempts were vain. When this momentous subject was stated as for debate, they demanded that the doors should be opened. This being refused, they declined discussion ; being perfectly convinced, from indications too plain to be misunderstood, that in the House all argument with closed doors was hopeless ; and that any act, giving implied validity to so flagrant an abuse of power, would be little less than treachery to the essential rights of a free people. In the situation to which the undersigned have thus been reduced, they are compelled reluctantly to resort to this public declaration of such views of the state and relations of the country, as determined their judgment and vote upon the question of war. A measure of this kind has appeared to the undersigned to be more imperiously demanded, by the circumstance of a message and manifesto being prepared, and circulated at public expense, in which the causes for war were enumerated, and the motives for it concentrated, in a manner suited to agitate and influence the public mind. In executing this task, it will be the study of the undersigned to reconcile the duty they owe to the people, with that constitutional respect, which is due to the administrators of public concerns.

In commencing this view of our affairs, the undersigned would fail in duty to themselves, did they refrain from recurring to the course in relation to public measures, which they adopted and have undeviatingly pursued from the commencement of this long and eventful session ; in which they deliberately sacrificed every minor consideration to what they deemed the best interests of the country.

For a succession of years, the undersigned have from principle disapproved a series of restrictions upon commerce, according to their estimation, inefficient as respected foreign nations, and injurious chiefly to ourselves. Success, in the system, had

become identified with the pride, the character, and the hope of our Cabinet. As is natural with men, who have a great stake depending on the success of a favorite theory, pertinacity seemed to increase as its hopelessness became apparent. As the inefficiency of this system could not be admitted, by its advocates, without insuring its abandonment, ill success was carefully attributed to the influence of opposition.

To this cause the people were taught to charge its successive failures, and not to its intrinsic imbecility. In this state of things, the undersigned deemed it proper to take away all apology for adherence to this oppressive system. They were desirous, at a period so critical in public affairs, as far as was consistent with the independence of opinion, to contribute to the restoration of harmony in the public councils, and concord among the people. And if any advantage could be thus obtained in our foreign relations, the undersigned, being engaged in no purpose of personal or party advancement, would rejoice in such an occurrence.

The course of public measures also, at the opening of the session, gave hope that an enlarged and enlightened system of defence, with provision for security of our maritime rights, was about to be commenced ; a purpose, which, wherever found, they deemed it their duty to foster by giving to any system of measures, thus comprehensive, as unobstructed a course as was consistent with their general sense of public duty. After a course of policy thus liberal and conciliatory, it was cause of regret that a communication should have been purchased by an unprecedented expenditure of secret service money, and used by the Chief Magistrate to disseminate suspicion and jealousy ; and to excite resentment among the citizens, by suggesting imputations against a portion of them, as unmerited by their patriotism, as unwarranted by evidence.

It has always been the opinion of the undersigned, that a system of peace was the policy, which most comported with the character, condition, and interest of the United States ; that their remoteness from the theatre of contest in Europe was their peculiar felicity, and that nothing but a necessity, absolutely imperious, should induce them to enter as parties into wars, in which every consideration of virtue and policy seems to be forgotten, under the overbearing sway of rapacity and ambition. There is a new era in human affairs. The European world is convulsed. The advantages of our own situation are peculiar. * " Why quit our own to stand upon foreign ground ? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice ? "

In addition to the many moral and prudential considerations, which should deter thoughtful men from hastening into the perils of such a war, there were some peculiar to the United States, resulting from the texture of the Government

* Washington.

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and the political relations of the people. A form of government, in no small degree experimental, composed of powerful and independent sovereignties, associated in relations, some of which are critical, as well as novel, should not be hastily precipitated into situations, calculated to put to trial the strength of the moral bond, by which they are united. Of all states, that of war is most likely to call into activity the passions, which are hostile and dangerous to such a form of government. Time is yet important to our country to settle and mature its recent institutions. Above all, it appeared to the undersigned, from signs not to be mistaken, that if we entered upon this war, we did it as a divided people; not only from a sense of the inadequacy of our means to success, but from moral and political objections of great weight and very general influence.

It appears to the undersigned, that the wrongs, of which the United States have to complain, although in some aspects very grievous to our interests, and in many humiliating to our pride, were yet of a nature which, in the present state of the world, either would not justify war, or which war would not remedy. Thus, for instance, the hovering of British vessels upon our coasts, and the occasional insults to our ports, imperiously demanded such a systematic application of harbor and seacoast defence, as would repel such aggressions, but, in no light can they be considered as making a resort to war, at the present time, on the part of the United States, either necessary or expedient. So, also, with respect to the Indian war, of the origin of which but very imperfect information has yet been given to the public. Without any express act of Congress, an expedition was, last year, set on foot and prosecuted into the Indian territory, which had been relinquished by treaty, on the part of the United States. And now we are told about agency of British traders, as to Indian hostilities. It deserves consideration, whether there has been such provident attention, as would have been proper to remove any cause of complaint, either real or imaginary, which the Indians might allege, and to secure their friendship. With all the sympathy and anxiety excited by the state of that frontier, important as it may be, to apply adequate means of protection against the Indians, how is its safety insured by a declaration of war, which adds the British to the number of enemies?

As "a decent respect to the opinions of mankind" has not induced the two Houses of Congress to concur in declaring the reasons, or motives, for their enacting a declaration of war, the undersigned and the public are left to search, elsewhere, for causes either real or ostensible. If we are to consider the President of the United States, and the committee of the House of Representatives, on foreign relations, as speaking on this solemn occasion, for Congress, the United States have three principal topics of complaint against Great Britain: Impressments, Blockades, and Orders in Council.

Concerning the subject of impressment, the undersigned sympathize with our unfortunate

seamen, the victims of this abuse of power, and participate in the national sensibility, on their account. They do not conceal from themselves both its importance and its difficulty; and they are well aware how stubborn is the will and how blind the vision of powerful nations, when great interests grow into controversy.

But, before a resort to war for such interests, a moral nation will consider what is just, and a wise nation what is expedient. If the exercise of any right to the full extent of its abstract nature, be inconsistent with the safety of another nation, morality seems to require that, in practice, its exercise should, in this respect, be modified. If it be proposed to vindicate any right by war, wisdom demands that it should be of a nature, by war, to be obtained. The interests connected with the subject of impressment are unquestionably great to both nations; and, in the full extent of abstract right, as asserted by each, perhaps irreconcilable.

The Government of the United States asserts the broad principle that the flag of their merchant vessels shall protect the mariners. This privilege is claimed, although every person on board, except the captain, may be an alien.

The British Government asserts that the allegiance of their subjects is inalienable in time of war, and that their seamen, found on the sea, the common highway of nations, shall not be protected by the flag of private merchant vessels.

The undersigned deem it unnecessary here to discuss the question of the American claim, for the immunity of their flag. But they cannot refrain from viewing it as a principle, of a nature very broad and comprehensive, to the abuse of which the temptations are strong and numerous. And they do maintain that, before the calamities of war, in vindication of such a principle, be incurred, all the means of negotiation should be exhausted, and that also every practicable attempt should be made to regulate the exercise of the right; so that the acknowledged injury, resulting to other nations, should be checked, if not prevented. They are clearly of opinion that the peace of this happy and rising community should not be abandoned for the purpose of affording facilities to cover French property, or to employ British seamen.

The claim of Great Britain to the services of her seamen is neither novel nor peculiar. The doctrine of allegiance, for which she contends, is common to all the Governments of Europe. France, as well as England, has maintained it for centuries. Both nations claim, in time of war, the services of their subjects. Both, by decrees, forbid their entering into foreign employ. Both recall them by proclamation.

No man can doubt that, in the present state of the French marine, if American merchant vessels were met at sea, having French seamen on board, France would take them. Will any man believe that the United States would go to war against France on that account?

For these very obvious reasons, the principle occasions little collision with France or any other

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nation except England. With the English nation, the people of the United States are closely assimilated, in blood, language, intercourse, habits, dress, manners, and character. When Britain is at war and the United States neutral, the merchant service of the United States holds out to British seamen temptations almost irresistible: high wages and peaceful employ, instead of low wages and war service—safety in lieu of hazard—entire independence in the place of qualified servitude.

That England, whose situation is insular, who is engaged in a war apparently for her existence, whose seamen are her bulwark, should look upon the effect of our principle upon her safety with jealousy is inevitable; and that she will not hazard the practical consequences of its unregulated exercise is certain. The question therefore presented, directly, for the decision of the thoughtful and virtuous mind, in this country, is, whether war for such an abstract right be justifiable, before attempting to guard against its injurious tendency by legislative regulation, in failure of treaty.

A dubious right should be advanced with hesitation; an extreme right should be asserted with discretion. Moral duty requires that a nation, before it appeals to arms, should have been not only true to itself, but that it should have failed in no duty to others. If the exercise of a right, in an unregulated manner, be in effect a standing invitation to the subjects of a foreign Power to become deserters and traitors, is it no injury to that Power?

Certainly moral obligation demands that the right of the flag, like all other human rights, should be so used, as that, while it protects what is our own, it should not injure what is another's. In a practical view, and so long as the right of flag is restrained by no regard to the undeniable interests of others, a war on account of impressment, is only a war for the right of employing British seamen on board American merchant vessels.

The claim of Great Britain pretends to no further extent than to take British seamen from private merchant vessels. In the exercise of this claim, her officers take American seamen, and foreign seamen in the American service; and, although she disclaims such abuses, and proffers redress, when known, yet undoubtedly grievous injuries have resulted to the seamen of the United States. But, the question is, can war be proper for such a cause before all hope of reasonable accommodation has failed? Even after the extinguishment of such hope, can it be proper until our own practice be so regulated as to remove, in such foreign nation, any reasonable apprehension of injury?

The undersigned are clearly of opinion that the employment of British seamen in the merchant service of the United States is as little reconcilable with the permanent as the present interest of the United States. The encouragement of foreign seamen is the discouragement of the native American.

The duty of the Government toward this valuable class of men is not only to protect but to patronise them. And this cannot be done more effectually than by securing to American citizens the privileges of American navigation.

The question of impressment, like every other question relative to commerce, has been treated in such a manner, that, what was possessed is lost, without obtaining what was sought. Pretensions, right in theory, and important in interest, urged without due consideration of our relative power, have eventuated in a practical abandonment, both of what we hoped and what we enjoyed. In attempting to spread our flag over foreigners, its distinctive character has been lost to our own citizens.

The American seaman, whose interest it is to have no competitors in his employment, is sacrificed, that British seamen may have equal privileges with himself.

Ever since the United States have been a nation, this subject has been a matter of complaint and negotiation; and every former Administration has treated it, according to its obvious nature, as a subject rather for arrangement than for war. It existed in the time of Washington, yet this Father of his Country recommended no such resort. It existed in the time of Adams, yet, notwithstanding the zeal in support of our maritime rights which distinguished his Administration, war was never suggested by him as the remedy. During the eight years Mr. Jefferson stood at the helm of affairs, it still continued a subject of controversy and negotiation; but it was never made the cause of war. It was reserved for the present Administration to press this topic to the extreme and most dreadful resort of nations; although England has officially disavowed the right of impressment, as it respects native citizens, and an arrangement might well be made consistent with the fair pretensions of such as are naturalized.

That the real state of this question may be understood, the undersigned recur to the following facts, as supported by the official documents: Mr. King, when Minister in England, obtained a disavowal of the British Government of the right to impress American seamen, naturalized as well as native, on the high seas. An arrangement had advanced nearly to a conclusion upon this basis, and was broken off only because Great Britain insisted to retain the right on the narrow seas. What, however, was the opinion of the American Minister, on the probability of an arrangement, appears from the public documents communicated to Congress in the session of 1808, as stated by Mr. Madison, in these words: "At the moment the articles were expected to be signed, an exception of the narrow seas was urged and insisted on by Lord St. Vincent, and, being utterly inadmissible on our part, the negotiation was abandoned."

Mr. King seems to be of opinion, however, that "with more time than was left him for the experiment, the objection might have been overcome. What time was left Mr. King for the experiment, or whether any was ever made, has not been dis-

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closed to the public. Mr. King soon after returned to America. It is evident from Mr. King's expression that he was limited in point of time, and it is equally clear that his opinion was that an adjustment could take place. That Mr. Madison was also of the opinion is demonstrated by his letters to Messrs. Monroe and Pinkney, dated the 3d of February, 1807, in which he uses these expressions: "I take it for granted that you have not failed to make use of the arrangement concerted by Mr. King with Lord Hawkesbury in 1802, for settling the question of impressment." On that occasion, and under that Administration, the British principle was fairly renounced in favor of the right of our flag, Lord Hawkesbury having agreed to prohibit impressments on the high seas, and Lord Vincent requiring nothing more than an exception of the narrow seas, an exception resting on the absolute claim of Great Britain to some peculiar dominion over them. Here, then, we have a full acknowledgment that Great Britain was willing to renounce the right of impressment on the high seas in favor of our flag; that she was anxious to arrange the subject.

It further appears that the British Ministry called for an interview with Messrs. Monroe and Pinkney, on this topic; that they stated the nature of the claim, the King's prerogative; that they had consulted the officers and the Board of Admiralty, who all concurred in sentiment, that, under the circumstances of the nation, the relinquishment of the right was a measure which the Government could not adopt without taking upon itself a responsibility which no Ministry would be willing to meet, however pressing the exigency might be. They offered, however, on the part of Great Britain, to pass laws making it penal for the officers of the United States to grant certificates of citizenship to British subjects. This will be found in the same documents, in a letter from Messrs. Monroe and Pinkney to Mr. Madison, dated 11th of November, 1806. Under their peremptory instructions, this proposition, on the part of Great Britain, could not be acceded to by our Ministers. Such, however, was the temper and anxiety of England, and such the candor and good sense of our Ministers, that an honorable and advantageous arrangement did take place.

The authority of Mr. Monroe, then Minister at the Court of Great Britain, now Secretary of State, and one of the present Administration who have recommended war with England, and assigned impressments as a cause, supports the undersigned in asserting that it was honorable and advantageous: for, in a letter from Richmond, dated 28th February, 1808, to Mr. Madison, the following expressions are used by Mr. Monroe: "I have, on the contrary, always believed, and do still believe, that the ground on which that interest [impressment] was placed by the paper of the British Commissioners of November 8, 1806, and the explanation which accompanied it, was both honorable and advantageous to the United States; that it contained a concession in their favor on the part of Great Britain on the great principle in contestation, never before made by a

formal and obligatory act of their Government, which was highly favorable to their interest."

With the opinion of Mr. King, so decidedly expressed, with the official admission of Mr. Madison, with the explicit declaration of Mr. Monroe, all concurring, that Great Britain was ready to abandon impressment on the high seas, and with an honorable and advantageous arrangement actually made by Mr. Monroe, how can it be pretended that all hope of settlement by treaty has failed; how can this subject furnish a proper cause of war?

With respect to the subject of blockades, the principle of the law of nations, as asserted by the United States, is, that a blockade can only be justified when supported by an adequate force. In theory this principle is admitted by Great Britain. It is alleged, however, that in practice she disregards that principle.

The order of blockade which has been made a specific ground of complaint by France, is that of the 16th May, 1806. Yet, strange as it may seem, this order, which is now made one ground of war between the two countries, was, at the time of its first issuing, viewed as an act of favor and conciliation. On this subject, it is necessary to be explicit. The vague and indeterminate manner in which the American and French Governments, in their official papers, speak of this order of blockade, is calculated to mislead. An importance is attached to it, of which, in the opinion of the undersigned, it is not worthy. Let the facts speak for themselves.

In August, 1804, the British established a blockade at the entrance of the French ports, naming them, from Fecamp to Ostend; and, from their proximity to the British coasts, and the absence of all complaint, we may be permitted to believe that it was a legal blockade, enforced according to the usages of nations. On the 16th of May, 1806, the English Secretary of State, Mr. Fox, notified to our Minister at London that his Government had thought fit to direct necessary measures to be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the river Brest, both inclusive.*

In point of fact, as the terms used in the order will show, this paper, which has become a substantive and avowed cause for non-intercourse, embargo, and war, is a blockade only of the places on the French coast, from Ostend to the Seine,

* The terms of the order are these, "That the said coast, rivers, and ports, must be considered as blockaded," but, "that such blockade shall not extend to prevent neutral ships and vessels, laden with goods, not being the property of His Majesty's enemies, and not being contraband of war, from approaching the said coasts, and entering into and sailing from the said rivers and ports, save and except the coast, rivers, and ports from Ostend to the river Seine, already in a state of strict and rigorous blockade; and which are to be considered as so continued," with a proviso, that the vessels entering had not been laden at a port belonging to, or in possession of, the enemies of Great Britain, and the vessels departing were not destined to an enemy port, or had previously broken blockade.

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and even as to these it is merely, as it professes to be, a continuance of a former and existing blockade. For, with respect to the residue of the coast, trade of neutrals is admitted, with the exception only of enemy's property and articles contraband of war, which are liable to be taken without a blockade; and, except the direct colonial trade of the enemy which Great Britain denied to be free by the law of nations. Why the order was thus extended in its form, while in effect it added nothing to orders and regulations already existing, will be known by adverting to papers which are before the world. In 1806, France had yet colonies, and the wound inflicted on our feelings by the interference of the British Government, in our trade with those colonies, had been the cause of remonstrance and negotiation. At the moment when the order of May, 1806, was made, Mr. Monroe, the present Secretary of State, then our Minister Plenipotentiary at the Court of Great Britain, was in treaty on the subject of the carrying trade, and, judging on the spot, and at the time, he unhesitatingly gave his opinion that the order was made to favor American views and interests. This idea is unequivocally expressed in Mr. Monroe's letters to Mr. Madison, of the 17th and 20th* of May, and of the 9th of June, 1806.

And, as late as October, 1811, the same gentleman, writing as Secretary of State to the British Minister, speaking of the same order of blockade of May, 1806, says: "It strictly was little more than a blockade of the coast from Seine to Ostend." "The object was to afford to the United States an accommodation respecting the colonial trade."

It appears, then, that this order was, in point of fact, made to favor our trade, and was so understood and admitted by the Government of this country at that time and since; that, instead of extending prior blockades, it lessened them; that the country from Seine to Brest, and from Ostend to Elbe, was inserted to open them to our colo-

*The following are extracts from these letters. In that of the 17th May, 1800, he thus speaks of that blockade. It is "couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless, it takes it away from many parts already blockaded; indeed, from all east of Ostend and west of the Seine, except in articles contraband of war and enemies' property, which are seizable without blockade. And, in like form of exception, considering every enemy as one Power, it admits the trade of neutrals within the same limits to be free in the productions of enemies' colonies, in every but the direct route between the colony and the parent country." Mr. Monroe adds: "It cannot be doubted that the note was drawn by the Government in reference to the question, and, if intended as the foundation of a treaty, must be viewed in a favorable light." On the 20th of May, Mr. Monroe writes to Mr. Madison, that he had been "strengthened in the opinion that the order of the 16th was drawn with a view to the question of our trade with enemies' colonies, and that it promises to be highly satisfactory to our commercial interests."

nial trade and for our accommodation, and that it was never made the subject of complaint by the American Government during its practical continuance; that is, not until the first Order in Council; and, indeed, not until after the first of May, 1810; and until after the American Government was apprized of the ground which it was the will of France should be taken upon the subject.

Of this we have the most decisive proof in the offers made under the Administration of Mr. Jefferson, for the discontinuance of the embargo, as it related to Great Britain; none of which required the repeal of the blockade of May, 1806; and also in the arrangement made during the Administration of Mr. Madison, and, under his eye, with Mr. Erskine. The non-intercourse act of March, 1809, and the act "concerning commercial intercourse," of May, 1810, vest the President of the United States, with the very same power, in the very same terms. Both authorize him, "in case either Great Britain or France shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States," to declare the same by proclamation. And, by the provisions of one law, in such case, non-intercourse was to cease; by those of the other it was to be revived. In consequence of power vested, by the first act, the arrangement with Erskine was made, and the revocation of the Orders in Council of January and November, 1807, was considered as a full compliance with the law, and as removing all the anti-neutral edicts. The blockade of May, 1806, was not included in the arrangement, and it does not appear that it was deemed of sufficient importance to engage even a thought. Yet, under the act of May, 1810, which vests the very same power, a revocation of this blockade of May, 1806, is made by our Cabinet a *sine qua non*, an indispensable requisite! And now, after the British Minister has directly avowed that this order of blockade would not continue after a revocation of the Orders in Council, without a due application of an adequate force, the existence of this blockade is insisted upon as a justifiable cause of war, notwithstanding that our Government admits a blockade is legal, to the maintenance of which an adequate force is applied.

The undersigned are aware that, in justification of this new ground, it is now said that the extension on paper, for whatever purpose intended, favors the principle of paper blockades. This, however, can hardly be urged, since the British*

* Mr. Foster, in his letter of the 3d of July, 1811, to Mr. Monroe, thus states the doctrine, maintained by his Government:

"Great Britain has never attempted to dispute that, in the ordinary course of the law of nations, no blockade can be justifiable or valid, unless it be supported by an 'adequate force, destined to maintain it, and to expose to hazard all vessels attempting to evade its operation.'"

Mr. Foster, in his letter to Mr. Monroe of the 26th of July, 1811, says: "The blockade of May, 1806,

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formally disavow the principle; and, since they acknowledge the very doctrine of the law of nations, for which the American Administration contend, henceforth the existence of a blockade becomes a question of fact; it must depend upon the evidence adduced in support of the adequacy of the blockading force.

From the preceding statement, it is apparent that, whatever there is objectionable in the principle of the order of May, 1806, or in the practice under it, on ground merely American, it cannot be set up as a sufficient cause of war; for, until France pointed it out as a cause of controversy, it was so far from being regarded as a source of any new or grievous complaint, that it was actually considered by our Government in a favorable light.

The British Orders in Council are the remaining source of discontent, and avowed cause of war. These have heretofore been considered, by our Government, in connexion with the French decrees. Certainly, the British Orders in Council, and French decrees, form a system subversive of neutral rights, and constitute just grounds of complaint; yet, viewed relatively to the condition of those Powers towards each other, and of the United States towards both, the undersigned cannot persuade themselves that the Orders in Council, as they now exist, and with their present effect and operation, justify the selection of Great Britain as our enemy; and render necessary a declaration of unqualified war.

Every consideration of moral duty and political expedience seems to concur in warning the United States not to mingle in this hopeless and, to human eye, interminable European contest. Neither France nor England pretends that their aggressions can be defended, on the ground of any other belligerent right, than that of particular necessity.

Both attempt to justify their encroachments, on the general law of nations, by the plea of retaliation. In the relative position, and proportion of strength of the United States to either belligerent, there appeared little probability that we could compel the one or the other by hostile operations, to abandon this plea.

And as the field of commercial enterprise, after allowing to the decrees and orders their full practical effect, is still rich and extensive, there seemed as little wisdom as obligation to yield solid and certain realities for unattainable pretensions. The right of retaliation, as existing, in either belligerent, it was impossible for the United States, consistent with either its duty or interest, to admit. Yet, such was the state of the decrees and orders of the respective belligerents, in relation to the rights of neutrals, that, while, on the one hand, it formed no justification to either; so, on the other, concurrent circumstances formed a com-

plete justification to the United States in maintaining, notwithstanding these encroachments, provided it best comported with their interests, that system of impartial neutrality, which is so desirable to their peace and prosperity. For, if it should be admitted, which no course of argument can maintain, that the Berlin decree, which was issued on the 21st of November, 1806, was justified by the antecedent orders of the British Admiralty, respecting the colonial trade, and by the order of blockade of the 16th of May, preceding; yet, on this account, there resulted no right of retaliation to France, as it respected the United States. They had expressed no acquiescence, either in the British interference with the colonial trade, or in any extension of the principles of blockade. Besides, had there been any such neglect, on the part of the United States, as warranted the French Emperor in adopting his principle of retaliation; yet, in the exercise of that pretended right, he passed the bounds of both public law and decency; and, in the very extravagance of that exercise, lost the advantage of whatever color the British had afforded to his pretences. Not content with adopting a principle of retaliation, in terms limited and appropriate, to the injury of which he complained, he declared, "all the British Islands in a state of blockade; prohibited all commerce and correspondence with them, all trade in their manufactures; and made lawful prize of all merchandise belonging to England, or coming from its manufactories and colonies." The violence of these encroachments was equalled only by the insidiousness of the terms and manner in which they were promulgated. The scope of the expressions of the Berlin decree was so general, that it embraced within its sphere the whole commerce of neutrals with England. Yet, Decrees, Minister of the Marine of France, by a formal note of the 24th of December, 1806, assured our Minister Plenipotentiary, that the Imperial decree, of the 21st of November, 1806, "was not to affect our commerce, which would still be governed by the rules of the treaty, established between the two countries." Notwithstanding this assurance, however, on the 18th of September, following, Reginier, Grand Minister of Justice, declared, "that the intentions of the Emperor were, that, by virtue of that decree, French armed vessels might seize, in neutral vessels, either French property or merchandise proceeding from the English manufactories; and that he had reserved, for future decision, the question whether they might not possess themselves of neutral vessels going to or from England, although they had no English manufactures on board." Pretensions so obviously exceeding any measure of retaliation, that if the precedent acts of the British Government had afforded to such a resort any color of right, it was lost in the violence and extravagance of these assumed principles.

To the Berlin decrees succeeded the British Orders in Council of the 7th of January, 1807, which were merged in the orders of the 11th of November following. These declared "all ports and

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places belonging to France and its allies, from which the British flag was excluded, all in the colonies of His Britannic Majesty's enemies, in a state of blockade; prohibiting all trade in the produce and manufactures of the said countries or colonies; and making all vessels trading to or from them, and all merchandise on board, subject to capture and condemnation, with an exception, only in favor of the direct trade, between neutral countries and the colonies of His Majesty's enemies."

These extravagant pretensions, on the part of Great Britain, were immediately succeeded by others, still more extravagant, on the part of France. Without waiting for any knowledge of the course the American Government would take, in relation to the British Orders in Council, the French Emperor issued, on the 17th of December following, his Milan decree, by which "every ship, of whatever nation, which shall have submitted to search, by an English ship, or to a voyage to England, or paid any tax to that Government, are declared *denationalized*, and lawful prize.

"The British Islands are declared in a state of blockade by sea and land, and every ship of whatever nation, or whatsoever the nature of its cargo may be, that sails from England, or those of the English colonies, or of countries occupied by English troops, and proceeding to England, or to the English colonies, or to countries occupied by the English, to be good prize." The nature and extent of these injuries, thus accumulated by mutual efforts of both belligerents, seemed to teach the American statesman this important lesson: not to attach the cause of his country to one or the other; but, by systematic and solid provisions, for seacoast and maritime defence, to place its interests, as far as its situation and resources permit, beyond the reach of the rapacity or ambition of any European Power. Happy would it have been for our country, if a course of policy so simple and obvious, had been adopted!

Unfortunately, the Administration had recourse to a system, complicated in its nature, and destructive in its effects; which, instead of relief, from the accumulated injuries of foreign Governments, served only to fill up what was wanting in the measure of evils abroad, by artificial embarrassments at home. As long ago as the year 1794, Mr. Madison, the present President of the United States, then a member of the House of Representatives, devised and proposed a system of commercial restrictions, which had for its object the coercion of Great Britain, by a denial to her of our products and our market; asserting that the former was, in a manner, essential to her prosperity, either as necessities of life, or as raw materials for her manufactures; and that, without the latter, a great proportion of her laboring classes could not subsist.

In that day of sage and virtuous forethought, the proposition was rejected. It remained, however, a theme of unceasing panegyric among an active class of American politicians, who, with a systematic pertinacity, inculcated among the peo-

ple, that commercial restrictions were a species of warfare which would insure success to the United States, and humiliation to Great Britain.

There were two circumstances, inherent in this system of coercing Great Britain by commercial restrictions, which ought to have made practical politicians very doubtful of its result, and very cautious of its trial. These were, the state of opinion in relation to its efficacy, among commercial men in the United States; and the state of feeling, which a resort to it would unavoidably produce in Great Britain. On the one hand, it was undeniable that the great body of commercial men in the United States had no belief in such a dependence of Great Britain upon the United States, either for our produce or our market, as the system implied.

Without the hearty co-operation of this class of men, success in its attempt was obviously unattainable. And, as on them the chief suffering would fall, it was altogether unreasonable to expect that they would become co-operating instruments in support of any system which was ruin to them, and without hope to their country. On the other hand, as it respects Great Britain, a system of proceeding upon the avowed principle of her dependence upon us was among the last, to which a proud and powerful nation would yield.

Notwithstanding these obvious considerations, in April, 1806, Mr. Madison, being then Secretary of State, a law passed Congress, prohibiting the importation of certain specified manufactures of Great Britain and her dependencies, on the basis of Mr. Madison's original proposition. Thus, the United States entered on the system of commercial hostility against Great Britain.

The decree of Berlin was issued in the ensuing November, (1806.) The treaty which had been signed at London, December, 1806, having been rejected by Mr. Jefferson, without being presented to the Senate for ratification, and the non-importation act not being repealed, but only suspended, Great Britain issued her Orders in Council, on the 11th November, 1807.

On the 21st of the same month, of November, Mr. Champagny, French Minister of Foreign Affairs, wrote to Mr. Armstrong, the American Minister, in the words following: "All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the Government of the United States, after complaining in vain of the injustice and violations of England, took, with the whole Continent, the part of guaranteeing it therefrom."

On the 17th of the ensuing December, the Milan decree was issued on the part of France, and five days afterwards the embargo was passed on the part of the United States. Thus was completed, by acts nearly contemporaneous, the circle of commercial hostilities.

After an ineffectual trial of four years to control the policy of the two belligerents by this system, it was, on the part of the United States, for a time, relinquished. The act of the 1st of May, 1810, gave the authority, however, to the Presi-

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dent of the United States, to revive it against Great Britain, in case France revoked her decrees. Such revocation, on the part of France, was declared, by the President's proclamation on the 2d November, 1810, and, in consequence, non-intercourse was revived by our Administration against Great Britain.

At all times, the undersigned have looked, with much anxiety, for the evidence of this revocation. They wished not to question, what, in various forms, has been so often asserted by the Administration and its agents, by their direction. But, neither as public men, nor as citizens, can they consent that the peace and prosperity of the country should be sacrificed, in maintenance of a position which on no principle of evidence they deem tenable. They cannot falsify or conceal their conviction, that the French decrees neither have been, or are revoked.

Without pretending to occupy the whole field of argument, which the question of revocation has opened, a concise statement seems inseparable from the occasion.

The condition, on which the non-intercourse, according to the act of 1st May, 1810, might be revived against Great Britain, was, on the part of France, an effectual revocation of her decrees. What the President of the United States was bound to require from the French Government, was, the evidence of such effectual revocation. Upon this point, both the right of the United States, and the duty of the President, seem to be resolvable into very distinct and undeniable principles. The object to be obtained for the United States from France, was an effectual revocation of the decrees. A revocation, to be effectual, must include, in the nature of things, this essential requisite: the wrongs done to the neutral commerce of the United States, by the operation of the decrees, must be stopped. Nothing short of this could be an effectual revocation.

Without reference to the other wrongs resulting from those decrees to the commerce of the United States, it will be sufficient to state the prominent wrongs done by the 3d article of the Milan decree.* The nature of this wrong essentially consisted in the authority given to French ships of war and privateers, to make prize at sea of every neutral vessel sailing to or from any of the English possessions. The authority to capture was the very essence of the wrong. It follows, therefore, that an effectual revocation required that the authority to capture should be annulled. Granting, therefore, for the sake of argument,

(what from its terms and its nature was certainly not the case,) that the noted letter of the Duke of Cadore of the 5th of August, 1810, held forth a revocation, good in point of form, and unconditional, yet it was not that effectual revocation, for which the act of 1st May, 1810, alone authorized the President of the United States to issue his proclamation, unless, in consequence of that letter, the authority to capture was annulled. The letter itself is no annulment of the authority to capture, and, it is notorious that no evidence of the annulment of this authority to capture ever has been adduced. It has not even been pretended. On the contrary, there is decisive and almost daily evidence of the continued existence of this authority to capture.

The charge of executing the decrees of Berlin and Milan was, so far as concerned his Department, given by the terms of those decrees to the French Minister of Marine. According to established principles of general law, the imperial act which gave the authority must be annulled by another imperial act, equally formal and solemn; or, at least, the authority to capture must be countermanded by some order or instruction from the Minister of Marine. In exercising a trust committed to him by the Legislature, on a point so interesting to the neutral commerce of the United States, and so important to the peace of the nation, was it not the duty of the President to have the evidence of such annulment before the issuing of any proclamation? Has he ever insisted upon such evidence? Was it of no consequence, in the relative situation of this country, as to foreign Powers, that the regular evidence should be received by our Administration and made known? Why has a matter of evidence, so obviously proper, so simple in its nature, so level to general apprehension, and so imperiously demanded by the circumstances of the case, been wholly omitted? And why, if the Berlin and Milan decrees are annulled, as it is pretended, does the French Emperor withhold this evidence of their annulment? Why does he withhold it when the question of revocation is presented under circumstances of so much urgency?

Not only has it never been pretended that any such imperial act of annulment has issued, nor any such order or instructions, countermanding the authority to capture, were ever given, but there is decisive evidence of the reverse in the conduct of the French public armed vessels and privateers. At all times since November, 1810, these ships and privateers have continued to capture our vessels and property on the high seas, upon the principle of the Berlin and Milan decrees. A numerous list of American vessels thus taken, since the first of November, 1810, now exists in the office of the Secretary of State, and among the captures are several vessels, with their cargoes, lately taken and destroyed at sea, without the formality of a trial, by the commanders of a French squadron, at this moment cruising against our commerce under order given by the Minister of Marine, to whom the execution of the decree was committed, and these, too, issued

* This article is in these words:

"Art. III. The British islands are declared to be in a state of blockade, both by land and sea. Every ship of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to the English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree, and may be captured by our ships of war or our privateers, and adjudged to the captors."

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in January last. In the Baltic and Mediterranean seas, captures by French privateers are known to us by official documents to have been made under authority of these decrees. How, then, are they revoked? How have they ceased to violate our neutral rights and commerce?

Had any repeal or modification of these decrees in truth taken place, it must have been communicated to the prize courts, and would have been evinced by some variation either in their rules or in the principles of their decisions. In vain, however, will this nation seek for such proof of the revocation of these decrees. No acquittal has ever been had in any of the prize courts upon the ground that the Berlin and Milan decrees had ceased, even as it respects the United States; on the contrary, the evidence is decisive that they are considered by the French courts as existing.

There are many cases corroborative of this position. It is enough to state only two, which appear in the official reports. The American ship *Julian* was captured by a French privateer on the 4th of July, 1811, and the 10th of September following the vessel and cargo were condemned by the Council of Prizes at Paris, among other reasons, because she was visited by several English vessels. On the same day, the *Hercules*, an American ship, was condemned by the Imperial Court of Prizes, alleging that "it was impossible that she was not visited by the enemy's ships of war." So familiar to them was the existence of the decrees, and such their eagerness to give them effect against our commerce, that they feigned a visitation to have taken place, and that, notwithstanding the express declaration of the captain and crew to the contrary. In addition to which evidence, Mr. Russell's letter to the Secretary of State, dated 8th of May, 1811, says: "It may not be improper to remark, that no American vessel captured since the 1st of November, 1810, has yet been released."

From this it is apparent that the commanders of the national vessels, the privateersmen, and the judges of the prize courts, to which may be added, also, the custom-house officers, who, as the instruments of carrying into effect these decrees, must have been made acquainted with the repeal had it existed, have been, from first to last, ignorant of any revocation, and uniformly acted upon the principle of their existence.

If other evidence of the continued existence of those decrees were requisite, the acts of the French Government afford such as is full and explicit. *Champagny*, Duke of Cadore, Minister of Foreign Relations, in his report to His Majesty, the Emperor and King, dated "Paris, December 3, 1810," speaking of the decrees of Berlin and Milan, says expressly: "As long as England shall persist in her Orders in Council, your Majesty will also persist in your decrees." Than which, no declaration can be more direct, not only that the Berlin and Milan decrees are unrevoked, but that they will so remain until the English Orders in Council are withdrawn. And, in the address delivered by His Imperial Majesty, Napoleon, to the Council of Commerce, on the 31st of

March, 1811, he thus declares: "The decrees of Berlin and Milan are the fundamental laws of my empire. For the neutral navigation I consider the flag as an extension of territory. The Power which suffers its flag to be violated, cannot be considered as neutral. The fate of the American commerce will soon be decided. I will favor it if the United States conform themselves to these decrees. In a contrary case, their vessels will be driven from my empire."

As late as the 10th March last, in a report of the French Minister of Foreign Relations, communicated to the Conservative Senate, it is declared, that, "As long as the British Orders in Council are not revoked, and the principles of the Treaty of Utrecht in relation to neutrals put in force, the decrees of Berlin and Milan ought to subsist for the Powers who suffer their flag to be denationalized." In none of these acts is there any exception in favor of the United States. And, on the contrary, in the report of March last, by placing those decrees on the basis of "the principles of the Treaty of Utrecht," the French Minister has extended the terms of revocation beyond all prior pretensions.

Those who maintain the revocation of these decrees, as it respects the United States, rely wholly upon the suspension of the decisions of the French prize courts, in relation to some few vessels, and the liberation of others, by the special direction of the French Emperor. Can there be stronger presumptive evidence of the existence of those decrees than this, that no vessel is excepted from their operation until after the special exercise of the Emperor's will in the particular case?

If the decrees were effectively revoked, there would be no captures; or, if any were made, liberation would be a matter of course, and of general right, instead of being an affair of particular favor or caprice. Is it for vexations and indulgences like these, that the people of the United States are to abandon their commerce and peace? Is it for such favors they are to invite the calamities of war? If the resources of negotiation were exhausted, had the Government no powers remaining to diminish the causes of national controversy, by preventing abuses? After this, had it no powers to provide for protecting indisputable and important rights, without a war of offence? In the regular exercise of Legislative and Executive powers, might not the fair objects of interest for our country have been secured, completely, by consistent and wholesome plans for defensive protection? And would not a national position, strictly defensive, yet highly respectable, have been less burdensome to the people than the projected war? Would it not be more friendly to the cause of our own seamen; more safe for our navigation and commerce; more favorable to the interest of our agriculture; less hazardous to national character; more worthy of a people jealous of their liberty and independence?

For entering into these hostilities, is there anything in the friendship or commerce of France, in its nature, very interesting or alluring? Will

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the reaping a scanty field of French trade, which we seek, in any way compensate for the rich harvest of general commerce, which, by the war, we are about to abandon? When entering into a war with Great Britain for commercial rights and interests, it seems impossible not to inquire into the state of our commercial relations with France, and the advantages the United States will obtain. We may thus be enabled to judge whether the prize is worth the contest.

By an official statement made to Congress during the present session, it appears, that, of forty-five millions two hundred and ninety-four thousand dollars of domestic productions of the United States, exported from September 30, 1810, to October 1, 1811, only one million one hundred and sixty-four thousand two hundred and seventy-five dollars were exported to France and Italy, including Sicily, not a dependency of France.

France is now deprived of all her foreign colonies, and by reviewing our trade with that country for several years past, and before the date of the Orders in Council, it will appear, that, exclusive of her foreign possessions, it has been comparatively inconsiderable. An annexed statement marked A, taken from official documents, shows the quantity of particular articles, the produce of the United States, exported to all the world, distinguishing the amount both to France and England and her dependencies, from 1800 to 1811. From this statement, it appears how small a proportion of the great staples of our country is taken by France.*

While France retained her colonies, the colonial produce found its way to the mother country through the United States; and our trade with her in these articles was not inconsiderable. But, since she has been deprived of her foreign possessions, and since the establishment of her municipal regulations as to licenses, this trade has been in a great degree annihilated. With respect to colonial produce, none can be imported into France, except from particular parts of the United States, and under special imperial licenses. For these licenses, our merchants must pay what the agents of the French Government think proper to demand. As to articles of our domestic produce, they are burdened with such exorbitant duties, and are subjected to such regulations and restrictions on their importation, as, in ordinary times, will amount to a prohibition. On the 5th of August, 1810, the very day of the Duke of Cadore's noted letter, a duty was imposed on all sea-island cot-

ton, imported into France, of more than 80 cents per pound, and on other cotton of about 60 cents per pound—amounting to three or four times their original cost in the United States. And as to tobacco, the French Minister here, on the 23d of July, 1811, informed our Government that it was “under an administration (*en regie*) in France. The administration (he says) is the only consumer, and can purchase only the quantity necessary for its consumption.” And, by other regulations, not more than one-fifteenth of all the tobacco consumed in France can be of foreign growth. The ordinary quantity of tobacco annually consumed in France is estimated at thirty thousand hogsheads; leaving only about two thousand hogsheads of foreign tobacco to be purchased in France.

In addition to these impositions and restrictions the importer is not left at liberty with respect to his return cargo. By other edicts he is compelled to vest the avails of his importations, if, after paying duties and seizures, any remain, in such articles of French produce and manufacture as the French Government thinks proper to direct. Two-thirds at least must be laid out in silks, and the other third in wines, brandies, and other articles of that country. To show that this account of our commercial relations with France does not rest on doubtful authority, the undersigned would refer to the statements and declarations of our Government on this subject. In a letter from Mr. Smith, the late Secretary of State, to the Minister of France here, of the 18th December, 1810, speaking of our trade to that country under its regulations, after the pretended repeal of the decrees, Mr. S. says: “The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchants from sending their vessels to France. The interdictions in the system that has been substituted against the admission of American products will have the effect of imposing upon them an equal restraint.”

“If, then, for the revoked decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration. And however true it may be that the change is lawful in form, it is, nevertheless, as true that it is essentially unfriendly, and that it does not comport with the ideas inspired by your letter of the 27th ultimo, in which you were pleased to declare “the distinctly pronounced intention of His Majesty favoring the commercial relations between France and the United States, in all the objects of traffic, which shall evidently proceed from their agriculture or manufactures.”

“If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has this Government, in a discussion with a third Power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things a blockade

* It appears by it, that for twelve years past, France has not taken in any year more than 7,000,000 pounds of cotton, 7,000 tierces of rice, 16,000 hogsheads of tobacco, and 87,000 quintals of dried fish;—of flour, naval stores, and lumber, none of any importance.

It also appears by it, that the annual average taken by France for twelve years, was 2,664,090 pounds of cotton, 2,253 tierces of rice, 5,927 hogsheads of tobacco, and 24,735 quintals of fish.

Of late years, some of those articles have not been shipped at all directly to France, but they have probably found their way thither through the northern ports of Europe.

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of the coast of France would be to the United States as unimportant as would be a blockade of the coast of the Caspian sea."

And so far has the French Emperor been from relaxing, in whole or in part, these odious regulations as to us, in consequence of our submitting to give up our English trade, that they have been made a subject of special instructions to the Minister who has been sent to the Court of France. Mr. Monroe, in his letter of instructions to Mr. Barlow of July 26, 1811, says: "Your early and particular attention will be drawn to the great subject of the commercial relation which is to subsist in future between the United States and France. The President expects that the commerce of the United States will be placed in the ports of France on such footing as to afford it a fair market; and to the industry and enterprise of their citizens a reasonable encouragement. An arrangement to this effect was looked for immediately after the revocation of the decrees, but it appears, from the documents in this department, that that was not the case; on the contrary, that our commerce has been subjected to the greatest discouragement, or rather, to the most oppressive restraints; that the vessels which carried coffee, sugar, &c., though sailing directly from the United States to a French port, were held in a state of sequestration, on the principle that the trade was prohibited, and that the importation of these articles was not only unlawful, but criminal; that even the vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in unusual forms, and to exorbitant duties. In short, that the ordinary usages of commerce between friendly nations were abandoned."

Again, Mr. Monroe, in the same letter, says, "If the ports of France and her allies are not opened to the commerce of the United States on a liberal scale and on fair conditions, of what avail to them, it may be asked, will be the revocation of the British Orders in Council? In contending for the revocation of these orders, so far as it was an object of interest, the United States had in view a trade to the Continent. It was a fair, legitimate object, and worth contending for while France encouraged it. But if she shuts her ports on our commerce, or burdens it with heavy duties, that motive is at an end." He again says, "you will see the injustice and endeavor to prevent the necessity of bringing in return, for American cargoes sold in France, an equal amount in the produce or manufactures of that country. No such obligation is imposed on French merchants trading to the United States. They enjoy the liberty of selling their cargoes for cash, and taking back what they please from this country in return. It is indispensable that the trade be free, that all American citizens engaged in it be placed on the same footing, and with this view, that the system of carrying it on by licenses granted by French agents, be immediately annulled."

The despatches from Mr. Barlow, by the Hor-

net, most clearly show that the expectations of our Government have not only not been realized, but that the promises obtained by our Minister are of a very unsatisfactory nature. Indeed, while Bonaparte is sending armies to the north of Europe to take possession of the ports on the Baltic, and, by his fast sailing squadrons, is burning American vessels on the Atlantic, all expectations of a free trade from France must be worse than vain.

Notwithstanding the violence of the belligerents, were the restrictions of our own Government removed, the commerce of the United States might be extensive and profitable. It is well known that from the gallantry of our seamen, if merchant vessels were allowed to arm and associate for self defence, they would be able to repel many unlawful aggressions. The danger of capture would be diminished, and, in relation to one of the belligerents at least, the risk, under such circumstances, would soon be measured by insurance.

The discussions of our Government, in relation to the British Orders in Council, gave a currency to the opinion that they exist without any modification according to the extent of the first principles on which they were issued. And the French Minister, in his last communication on this subject, made to the Conservative Senate, on the 10th of March last, speaks of the blockade of the 10th of May, 1806, "as annihilating the rights of all maritime States, and putting under interdiction whole coasts and empires;" and of the Orders in Council of 1807, as though still subsisting, and that, according to their principles, all vessels were compelled "to pay a tribute to England, and all cargoes a tariff to her customs." What the real extent and principle of the blockade of May, 1806, were, has already been explained. With respect to the British orders of 1807, the truth is, that, by a new order, issued on the 20th of April, 1809, they were revoked or modified, and the obnoxious transit duty, called by the French Minister "tribute and tariff," was done away. The new order of April, 1809, which is now the subject of complaint, is limited to "all the ports and places as far north as the river Ems, inclusively, under the Government styling itself the Kingdom of Holland, and all ports and places under the Government of France, together with the colonies, plantations, and settlements in the possession of these Governments respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro, inclusively."

The effect then of the British orders of blockade, now in force, is to deprive us of our commerce with France, Holland, and part of Italy; and they leave open the commerce of all the rest of the world. What that is, some estimate may be formed by recurrence to the subjoined table, which exhibits the state of our commerce during 1806, and 1807—the two last years antecedent to the operation of our restrictive system. By that table it appears that the value of the exports of our domestic produce to France, Holland,

Address of the Minority to their Constituents.

and Italy, was, during these two years,* at an average of only about \$6,500,000. Whereas the average of our domestic exports, to all other parts of the world, and which are now left free to us, notwithstanding the effect of the British Orders in Council, exceed thirty-eight millions! So extensive a commerce, it is proposed to surrender for the restricted trade the French Emperor will allow. A trade burdened by impositions, or harassed by vexations from French domination, and French *douaniers*, or custom-house officers, in almost every port of Continental Europe.

As in the scale of commercial advantages, France has little to offer in return for the many obvious hazards, which, according to the wish of her Emperor, the United States are about to incur; so, in the moral estimate of the national prospects, there is little character to gain, or consolation to expect, in the dark scene of things on which we are entering.

A nation like the United States, happy in its local relations; removed from the bloody theatre of Europe; with a maritime border, opening a vast field for enterprise; with territorial possessions exceeding every real want; its firesides safe; its altars undefiled; from invasion nothing to fear; from acquisition nothing to hope; how shall such a nation look to Heaven for its smiles, while throwing away, as though they were worthless, all the blessings and joys which peace and such a distinguished lot include? With what prayers can it address the Most High, when it prepares to pour forth its youthful rage upon a neighboring people; from whose strength it has nothing to dread, from whose devastation it has nothing to gain?

If our ills were of a nature that war would remedy; if war would compensate any of our losses, or remove any of our complaints, there might be some alleviation of the suffering, in the charm of the prospect. But how will war upon the land protect commerce upon the ocean? What balm has Canada for wounded honor? How are our mariners benefited by a war, which exposes those who are free, without promising release to those who are impressed?

But it is said that war is demanded by honor. Is national honor a principle, which thirsts after vengeance, and is appeased only by blood, which, trampling on the hopes of man, and spurning the law of God, untaught by what is past and careless of what is to come, precipitates itself into any folly of madness, to gratify a selfish vanity or to satiate some unhallowed rage? If honor demands a war with England, what opiate lulls that honor to sleep over the wrongs done us by France? On land, robberies, seizures, imprisonments, by French authority; at sea, pillage, sink-

ings, burnings, under French orders. These are notorious. Are they unfelt because they are French? Is any alleviation to be found in the correspondence and humiliations of the present Minister Plenipotentiary of the United States at the French Court? In his communications to our Government, as before the public, where is the cause for now selecting France as the friend of our country, and England as the enemy?

If no illusion of personal feeling, and no solicitude for elevation of place, should be permitted to misguide the public councils; if it is indeed honorable for the true statesman to consult the public welfare, to provide in truth for the public defence, and to impose no yoke of bondage; with full knowledge of the wrongs inflicted by the French, ought the Government of this country to aid the French cause, by engaging in war against the enemy of France? To supply the waste of such a war, and to meet the appropriation of millions extraordinary for the war expenditures, must our fellow-citizens, throughout the Union, be doomed to sustain the burden of war-taxes, in various forms of direct and indirect imposition? For official information, respecting the millions deemed requisite for charges of the war; for like information, respecting the nature and amount of taxes deemed requisite for drawing those millions from the community, it is here sufficient to refer to the estimates and reports made by the Secretary of the Treasury and the Committee of Ways and Means, and to the body of resolutions, passed in March last, in the House of Representatives.

It would be some relief to our anxiety, if amends were likely to be made for the weakness and wildness of the project, by the prudence of the preparation. But in no aspect of this anomalous affair can we trace the great and distinctive properties of wisdom. There is seen a headlong rushing into difficulties, with little calculation about the means, and little concern about the consequences. With a navy comparatively nominal, we are about to enter into the lists against the greatest marine on the globe. With a commerce unprotected and spread over every ocean, we propose to make profit by privateering, and for this endanger the wealth of which we are honest proprietors. An invasion is threatened of the colonies of a Power which, without putting a new ship into commission, or taking another soldier into pay, can spread alarm or desolation along the extensive range of our seaboard. The resources of our country, in their natural state, great beyond our wants or our hopes, are impaired by the effect of artificial restraints. Before adequate fortifications are prepared for domestic defence; before men, or money, are provided for a war of attack, why hasten into the midst of that awful contest which is laying waste Europe? It cannot be concealed, that to engage in the present war against England is to place ourselves on the side of France, and exposes us to the vassalage of States serving under the banners of the French Emperor.

The undersigned cannot refrain from asking,

* Value of articles of domestic produce, exported to all the world. The whole amount in 1806, to France, Holland, (now part of France), and Italy, \$7,022,008: in 1807, \$6,064,632. To England and her dependencies, in 1806, \$19,179,981: in 1807, \$27,915,077. To all other parts of the world, in 1806, \$15,051,740: in 1807, 14,719,883.

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what are the United States to gain by this war? Will the gratification of some privateersmen compensate the nation for that sweep of our legitimate commerce by the extended marine of our enemy, which this desperate act invites? Will Canada compensate the Middle States for New York; or the Western States for New Orleans? Let us not be deceived. A war of invasion may invite a retort of invasion. When we visit the peaceable, and as to us innocent, colonies of Great Britain with the horrors of war, can we be assured that our own coast will not be visited with like horrors? At a crisis of the world such as the present, and under impressions such as these, the undersigned could not consider the war, in which the United States have in secret been precipitated, as necessary, or required by any moral duty, or any political expediency.

George Sullivan,	Martin Chittenden,
A. Bigelow,	Elijah Brigham,
Wm. Ely,	Josiah Quincy,
Wm. Reed,	Samuel Taggart,
Laban Wheaton,	Leonard White,
Richard Jackson, jr.,	Elisha R. Potter,
Epaphroditus Champion,	John Davenport, jr.,
Lyman Law,	Jonathan O. Moseley,
Timothy Pitkin, jr.,	Lewis B. Sturges,
Benjamin Tallmadge,	H. Bleecker,
James Emott,	Asa Fitch,
Thomas R. Gold,	James Milnor,
H. M. Ridgely,	C. Goldsborough,
P. B. Key,	P. Stuart,
John Baker,	James Breckenridge,
Joseph Lewis, jr.,	Thomas Wilson,
A. McBryde.	Joseph Pearson.

NOTE A.

Quantity of particular articles, the produce of the United States, exported from 1800 to 1811, viz:

COTTON.

To all parts of the world.	To France.	To England.
Lbs.	Lbs.	Lbs.
1800 17,789,803	none	16,179,513
1801 20,911,201	844,728	18,953,065
1802 27,501,075	1,907,849	23,433,925
1803 41,105,623	3,821,840	27,757,307
1804 38,118,041	5,946,848	25,770,748
1805 40,383,491	4,504,329	32,571,071
1806 37,491,282	7,082,118	24,256,457
1807 66,612,737	6,114,358	53,180,211
1808 12,064,346	2,087,450	7,992,593
1809* 53,210,225	none direct	13,365,987
1810† 93,874,201	do	36,171,915
1811‡ 62,186,000	do	46,872,452

* In 1809, in consequence of the embargo and non-intercourse act, four millions pounds of cotton were shipped for Madeira, ten and a half millions to the Floridas, six millions to Fayal and other Azores, one million and three quarters to Portugal, and ten millions to Sweden.

† In 1810, about four millions of pounds of cotton were shipped for Spain, three millions for Portugal, three millions for Madeira, ten millions for Floridas, two millions for Europe generally, four millions for Fayal and the Azores, fourteen millions for Denmark and Norway, and five millions for Sweden.

‡ In 1811, nine millions of pounds of cotton were shipped for Russia.

RICE.

To all parts of the world.	To France.	To England & Colonies.
Tierces.	Tierces.	Tierces.
1800 112,056	none	77,547
1801 94,866	2,724	65,022
1802 79,822	7,186	37,393
1803 81,838	1,116	33,200
1804 78,385	6,014	24,975
1805 56,830	1,601	24,737
1806 102,627	3,392	39,298
1807 94,692	3,006	37,417
1808 9,228	none direct	4,298
1809 116,907	do	32,138
1810 131,341	do	31,118
1811 119,356	do	40,045

TOBACCO.

	<i>Hhds.</i>	<i>Hhds.</i>	<i>Hhds.</i>
1800	78,680	143	37,798
1801	103,758	5,006	55,256
1802	77,721	16,216	29,938
1803	86,291	9,815	47,829
1804	83,343	14,623	24,700
1805	71,252	12,135	18,169
1806	83,186	9,182	26,272
1807	62,232	2,376	23,047
1808	9,576	566	2,526
1809	53,921	none direct	8,965
1810	84,134	do	24,067
1811	35,823	569	20,342

FISH, DRIED OR SMOKED.

	<i>Quintals.</i>	<i>Quintals.</i>	<i>Quintals.</i>
1800	392,727	none	141,420
1801	410,948	1,687	111,030
1802	440,925	27,067	92,679
1803	461,870	3,491	71,495
1804	567,828	3,765	76,822
1805	514,549	73,004	55,676
1806	537,457	19,347	66,377
1807	473,924	87,654	55,242
1808	155,808	16,144	26,998
1809	345,648	none	66,566
1810	280,804	2,150	55,456
1811	216,387	28,622	38,242

PICKLED FISH.

None exported to European France.

FLOUR.

	<i>Bbls.</i>	<i>Bbls.</i>	<i>Bbls.</i>
1800	653,052	none	365,739
1801	1,102,444	do	658,023
1802	1,156,248	14,628	484,886
1803	1,311,853	18,045	502,006
1804	810,008	1,074	258,515
1805	777,513	none	235,176
1806	782,724	do	308,048
1807	1,249,819	do	619,918
1808	263,813	do	73,084
1809	846,247	do	230,822
1810	798,431	do	192,477
1811	1,445,012	2,966	275,534

NAVAL STORES—TAR.

1800	59,410	none	58,793
1801	67,487	do	62,632
1802	37,497	797	21,330
1803	78,989	none	75,295
1804	58,131	do	45,210

Proclamations by the President.

NAVAL STORES—TAR—Continued.

	<i>Bbbs.</i>	<i>Bbbs.</i>	<i>Bbbs.</i>
1805	72,745	do	59,439
1806	62,723	do	50,663
1807	59,282	do	51,232
1808	18,764	do	17,700
1809	128,090	do	33,072
1810	87,310	do	50,021
1811	149,796	do	123,034

TURPENTINE.

	To all parts of the world.	To France.	To England & Colonies.
	<i>Bbbs.</i>	<i>Bbbs.</i>	<i>Bbbs.</i>
1800	33,129	none	32,580
1801	35,413	do	35,143
1802	38,764	do	36,769
1803	61,178	do	60,732
1804	77,825	do	76,950
1805	95,640	do	94,328
1806	74,731	do	71,854
1807	53,451	do	52,107
1808	17,061	do	17,009
1809	77,398	do	22,885
1810	62,912	do	36,995
1811	100,242	do	97,250

LUMBER.

Of the vast quantities of lumber exported from 1800 to 1811, only a few staves and heading went to France, as follows, viz:

Thousands of staves and heading.

1801	-	6,349	1806	-	-	716
1803	-	357	1807	-	-	614
1804	-	321	1808	-	-	105
1805	-	466				

A PROCLAMATION.

By the President of the United States of America.

Whereas the Congress of the United States, by virtue of the constituted authority vested in them, have declared by their act, bearing date the 18th day of the present month, that war exists between the united Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories: Now therefore, I, JAMES MADISON, President of the United States of America, do hereby proclaim the same to all whom it may concern: and I do specially enjoin on all persons holding offices, civil or military, under the authority of the United States, that they be vigilant and zealous, in discharging the duties respectively incident thereto: And I do moreover exhort all the good people of the United States, as they love their country; as they value the precious heritage derived from the virtue and valor of their fathers; as they feel the wrongs which have forced on them the last resort of injured nations; and as they consult the best means, under the blessing of Divine Providence, of abridging its calamities; that they exert themselves in preserving order, in promoting concord, in maintaining the authority and ef-

ficacy of the laws, and in supporting and invigorating all the measures which may be adopted by the constituted authorities, for obtaining a speedy, a just, and an honorable peace.

In testimony whereof I have hereunto set [L. s.] my hand, and caused the seal of the United States to be affixed to these presents.

Done at the City of Washington the nineteenth day of June, one thousand eight hundred and twelve, and of the independence of the United States the thirty-sixth.

JAMES MADISON.

By the President:

JAMES MONROE,
Secretary of State.

A PROCLAMATION.

By the President of the United States of America.

Whereas the Congress of the United States, by a joint resolution of the two Houses, have signified a request, that a day may be recommended, to be observed by the people of the United States, with religious solemnity, as a day of public humiliation and prayer: and whereas such a recommendation will enable the several religious denominations and societies so disposed, to offer, at one and the same time, their common vows and adorations to Almighty God, on the solemn occasion produced by the war, in which he has been pleased to permit the injustice of a foreign Power to involve these United States; I do therefore recommend the *third Thursday in August next*, as a convenient day, to be set apart, for the devout purposes of rendering the Sovereign of the Universe, and the Benefactor of Mankind, the public homage due to His holy attributes; of acknowledging the transgressions which might justly provoke the manifestations of His divine displeasure; of seeking His merciful forgiveness, and His assistance in the great duties of repentance and amendment; and, especially, of offering fervent supplications, that, in the present season of calamity and war, he would take the American people under His peculiar care and protection; that He would guide their public councils, animate their patriotism, and bestow His blessing on their arms; that He would inspire all nations with a love of justice and of concord, and with a reverence for the unerring precept of our holy religion, to do to others as they would require that others should do to them; and, finally, that turning the hearts of our enemies from the violence and injustice which sway their councils against us, He would hasten a restoration of the blessings of peace.

Given at Washington, the ninth day of July, [L. s.] in the year of our Lord one thousand eight hundred and twelve.

JAMES MADISON.

By the President:

JAMES MONROE,
Secretary of State.

Public Acts of Congress.

transmit the same to the President of the United States, who, if he approves of said surveys, shall cause the plats thereof to be deposited in the office of the Treasury of the United States; and the said roads shall be considered as established and accepted, pursuant to the treaty held at Brownstown, in the Territory of Michigan, on the twenty-fifth day of November, one thousand eight hundred and eight.

Sec. 2. And be it further enacted, That the aforesaid roads shall be opened and made under the direction of the President of the United States, in such manner as he shall direct.

Sec. 3. And be it further enacted, That the said commissioners shall each be entitled to receive three dollars, and their necessary assistants one dollar and fifty cents, for each and every day which they shall be necessarily employed in the exploring, surveying, and marking said roads; and for the purpose of compensating the aforesaid commissioners and their assistants, and for opening and making said roads, there shall be and hereby is appropriated the sum of six thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, December 12, 1811.

An Act for the apportionment of Representatives among the several States, according to the third enumeration.

Be it enacted, &c., That, from and after the third day of March, one thousand eight hundred and thirteen, the House of Representatives shall be composed of members elected agreeably to a ratio of one Representative for every thirty-five thousand persons in each State, computed according to the rule prescribed by the Constitution of the United States, that is to say: within the State of New Hampshire, six; within the State of Massachusetts, twenty; within the State of Vermont, six; within the State of Rhode Island, two; within the State of Connecticut, seven; within the State of New York, twenty-seven; within the State of New Jersey, six; within the State of Pennsylvania, twenty-three; within the State of Delaware, two; within the State of Maryland, nine; within the State of Virginia, twenty-three; within the State of North Carolina, thirteen; within the State of South Carolina, nine; within the State of Georgia, six; within the State of Kentucky, ten; within the State of Ohio, six; within the State of Tennessee, six.

Approved, December 21, 1811.

An Act for completing the existing Military Establishment.

Be it enacted, &c., That the military establishment, as now authorized by law, be immediately completed.

Sec. 2. And be it further enacted, That there be allowed and paid to each effective, able-bodied man, recruited or re-enlisted for that service, for the term of five years, unless sooner discharged, the sum of sixteen dollars; but the payment of

one-half of the said bounty shall be deferred until he shall be mustered and have joined the corps in which he is to serve; and whenever any non-commissioned officer or soldier shall be discharged from the service, who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty whilst in service, he shall moreover be allowed and paid, in addition to the aforesaid bounty, three months' pay, and one hundred and sixty acres of land; and the heirs and representatives of those non-commissioned officers or soldiers, who may be killed in action, or die in the service of the United States, shall likewise be paid and allowed the said additional bounty of three months' pay, and one hundred and sixty acres of land, to be designated, surveyed, and laid off at the public expense, in such manner, and upon such terms and conditions, as may be provided by law.

Approved, December 24, 1811.

An Act authorizing the President of the United States to raise certain companies of Rangers for the protection of the frontier of the United States.

Be it enacted, &c., That the President of the United States, whenever he shall have satisfactory evidence of the actual or threatened invasion of any State or Territory of the United States, by any Indian tribe or tribes, be and he is hereby authorized to raise, either by the acceptance of volunteers or enlistment for one year, unless sooner discharged, as many companies as he may deem necessary, not exceeding six, who shall serve on foot or be mounted, as the service in his opinion may require, shall act on the frontier as rangers, be armed, equipped, and organized in such manner, and be under such regulations and restrictions, as the nature of the service, in his opinion, may make necessary.

Sec. 2. And be it further enacted, That each of the said companies of rangers shall consist of one captain, one first, one second lieutenant, one ensign, four sergeants, four corporals, and sixty privates.

Sec. 3. And be it further enacted, That when the said rangers arm and equip themselves, and provide for their own horses, they shall be allowed each one dollar per day, and without a horse seventy-five cents per day, as full compensation for their services, rations, or forage, as the case may be. The commissioned officers shall receive the same pay and rations as officers of the same grade in the Army of the United States.

Sec. 4. And be it further enacted, That the officers, non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation in case of disability, by wounds and otherwise, incurred in the service, as officers, non-commissioned officers, and privates, in the present military establishment, and with them shall be subject to the rules and articles of war, which have been established or may hereafter by law be established; and the provisions of the act, entitled "An act fixing the military peace establish-

Public Acts of Congress.

ment of the United States," so far as they may be applicable, shall be extended to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same. This act shall take effect and be in force from and after the passage thereof, and continue in force for one year, and from thence to the end of the next session of Congress.

SEC. 5. *And be it further enacted*, That, in the recess of the Senate, the President of the United States is hereby authorized to appoint all the officers proper to be appointed under this act; which appointments shall be submitted to the Senate, at their next session, for their advice and consent.

Approved, January 2, 1812.

An Act to authorize the laying out and opening a public road from the line established by the Treaty of Greenville, to the North Bend, in the State of Ohio.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be opened a road from the point where the United States' road from Vincennes, to the former Indian boundary line, established by the Treaty of Greenville, strikes the said line, to the North Bend, in the State of Ohio.

SEC. 2. *And be it further enacted*, That, for the purpose of defraying the expenses of opening the said road, there is hereby appropriated a sum of money not exceeding eight hundred dollars, payable out of any moneys in the Treasury not otherwise appropriated.

Approved, January 8, 1812.

An Act to raise an additional Military Force.

Be it enacted, &c., That there be immediately raised, ten regiments of infantry, two regiments of artillery, and one regiment of light dragoons, to be enlisted for the term of five years, unless sooner discharged.

SEC. 2. *And be it further enacted*, That a regiment of infantry shall consist of eighteen captains, eighteen first lieutenants, eighteen second lieutenants, eighteen ensigns, seventy-two sergeants, seventy-two corporals, thirty-six musicians, and eighteen hundred privates, which shall form two battalions, each of nine companies. A regiment of artillery shall consist of twenty captains, twenty first lieutenants, twenty second lieutenants, forty cadets, eighty sergeants, eighty corporals, one hundred and sixty artificers, forty musicians, and fourteen hundred and forty privates, which shall form two battalions, each of ten companies. The regiment of cavalry shall consist of twelve captains, twelve first lieutenants, twelve second lieutenants, twelve cornets, twenty-four cadets, forty-eight sergeants, forty-eight corporals, twelve saddlers, twelve farriers, twelve trumpeters, and nine hundred and sixty privates, which shall form two battalions, each of six companies.

SEC. 3. *And be it further enacted*, That to each regiment raised under this act, whether of infantry, artillery, or light dragoons, there shall be appointed one colonel, two lieutenant colo-

nels, two majors, two adjutants, one quartermaster, one paymaster, one surgeon, two surgeon's mates, two surgeon majors, two quartermaster sergeants, and two senior musicians.

SEC. 4. *And be it further enacted*, That there shall be appointed two major generals, each of whom shall be allowed two aids, to be taken from the commissioned officers of the line, and five brigadier generals, each of whom shall be allowed a brigade major and an aid, to be taken from the captains and subalterns of the line; and there shall also be appointed one adjutant general and one inspector general, each with the rank, pay, and emoluments of a brigadier general; the said adjutant general shall be allowed one or more assistants, not exceeding three, to be taken from the line of the army, with the same pay and emoluments as by this act are allowed to a lieutenant colonel: the said inspector general shall be allowed two assistant inspectors, to be taken from the line of the army, each of whom shall receive, while acting in said capacity, the same pay and emoluments as by this act are allowed to a lieutenant colonel; there shall also be appointed such number of hospital surgeons and mates as the service may require, with one steward to each hospital.

SEC. 5. *And be it further enacted*, That when an officer is detached to serve as brigade major or aid, or as assistant to the adjutant general or inspector general on the appointment of a general officer, or as adjutant or quartermaster on the appointment of a colonel, he shall not thereby lose his rank.

SEC. 6. *And be it further enacted*, That the major generals, respectively, shall be entitled to two hundred dollars monthly pay, with twenty dollars allowance for forage, monthly, and fifteen rations per day. Their aids-de-camp shall each be entitled to twenty-four dollars monthly, in addition to their pay in the line, and ten dollars monthly for forage, and four rations. The brigadier generals, respectively, shall be entitled to one hundred and four dollars monthly pay, twelve rations per day, and sixteen dollars per month for forage, when not found by the public.

SEC. 7. *And be it further enacted*, That all other officers, cadets, non-commissioned officers, musicians, artificers, and privates, authorized by this act, shall receive the like pay, forage, rations, clothing, and other emoluments, as the officers of the same grade and corps, cadets, non-commissioned officers, musicians, artificers, and privates, of the present military establishment.

SEC. 8. *And be it further enacted*, That each ration shall consist of one pound and a quarter of beef, or three quarters of a pound of pork, eighteen ounces of bread or flour, one gill of rum, whiskey, or brandy, and at the rate of two quarts of salt, four quarts of vinegar, four pounds of soap, and one pound and a half of candles, to every hundred rations.

SEC. 9. *And be it further enacted*, That every non-commissioned officer, musician, and private, of the artillery and infantry, shall receive annually the following articles of uniform cloth-

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ing, to wit: one hat, one coat, one vest, two pair of woollen, and two pair of linen overalls, one coarse linen frock and trowsers for fatigue clothing, four pair of shoes, four shirts, two pair of socks, two pair of short stockings, one blanket, one stock and clasp, and one pair of half gaiters: And the Secretary of War is hereby authorized to cause to be furnished to the paymasters of the respective districts such surplus of clothing as he may deem expedient, which clothing shall, under his direction, be furnished to the soldiers when necessary, at the contract prices, and accounted for by them out of their arrears of monthly pay.

SEC. 10. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates, of the said corps, shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, or by such rules and articles as may be hereafter, by law, established.

SEC. 11. *And be it further enacted*, That the commissioned officers who shall be employed in the recruiting service, shall be entitled to receive for every effective able-bodied man, who shall be duly enlisted by him for the term of five years, and mustered, (and between the ages of eighteen and forty-five years,) the sum of two dollars: *Provided, nevertheless*, That this regulation, so far as respects the age of the recruit, shall not extend to musicians or to those soldiers who may re-enlist into the service: *And provided, also*, That no person under the age of twenty-one years shall be enlisted by any officer, or held in the service of the United States, without the consent in writing of his parents, guardian, or master, first had and obtained, if any he have; and if any officer shall enlist any person contrary to the true meaning of this act, for every such offence he shall forfeit and pay the amount of the bounty and clothing which the person so recruited may receive from the public, to be deducted out of the pay and emoluments of such officer.

SEC. 12. *And be it further enacted*, That there shall be allowed and paid to each effective able-bodied man, recruited as aforesaid, to serve for the term of five years, a bounty of sixteen dollars; but the payment of eight dollars of the said bounty shall be deferred until he shall be mustered, and have joined some military corps of the United States for service. And whenever any non-commissioned officer, or soldier, shall be discharged from the service, who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate, that he had faithfully performed his duty whilst in service, he shall moreover be allowed and paid, in addition to the said bounty, three months' pay, and one hundred and sixty acres of land; and the heirs and representatives of those non-commissioned officers or soldiers who may be killed in action, or die in the service of the United States, shall likewise be paid and allowed the said additional bounty of three months' pay and one hundred and sixty acres of land, to be designated, surveyed, and laid off, at the public expense, in

such manner and upon such terms and conditions as may be provided by law.

SEC. 13. *And be it further enacted*, That the said corps shall be paid in such manner, that the arrears shall, at no time, exceed two months, unless the circumstances of the case shall render it unavoidable.

SEC. 14. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds, or otherwise, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are or may be directed by law: *Provided always*, That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant colonel; and, that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

SEC. 15. *And be it further enacted*, That if any commissioned officer, in the Military Establishment of the United States, shall, while in the service of the United States, die by reason of any wound received in actual service of the United States, and leave a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years. But, in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder of the time shall go to the child of such deceased officer: *Provided always*, That such half pay shall cease on the decease of such child or children.

SEC. 16. *And be it further enacted*, That if any non-commissioned officer, musician, or private, shall desert the service of the United States, he shall, in addition to the penalties mentioned in the rules and articles of war, be liable to serve for and during such a period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such soldier shall and may be tried by a court martial, and punished, although the term of his enlistment may have elapsed previous to his being apprehended or tried.

SEC. 17. *And be it further enacted*, That every person, not subject to the rules and articles of war, who shall procure or entice a soldier in the service of the United States, to desert; or who shall purchase from any soldier his arms, uniform clothing, or any part thereof; and every captain or commanding officer of any ship or vessel, who shall enter on board such ship or vessel as one of his crew, knowing him to have deserted, or other-

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wise carry away, any such soldier, or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined at the discretion of any court having cognizance of the same, in any sum not exceeding three hundred dollars, and be imprisoned any term not exceeding one year.

SEC. 18. *And be it further enacted*, That every officer, non-commissioned officer, musician, and private, shall take and subscribe the following oath or affirmation, to wit:

"I, A. B., do solemnly swear, or affirm, (as the case may be,) that I will bear true faith and allegiance to the United States of America, and that I will serve them, honestly and faithfully, against their enemies or opposers whomsoever; and that I will observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles of war."

SEC. 19. *And be it further enacted*, That there shall be appointed to each division a judge advocate, who shall be entitled to the same pay and emoluments as a major in the infantry, or, if taken from the line of the army, shall be entitled to thirty dollars per month in addition to his pay, and the same allowance for forage, as is allowed by law for a major of infantry.

SEC. 20. *And be it further enacted*, That where any commissioned officer shall be obliged to incur any extra expense in travelling and sitting on general courts martial, he shall be allowed a reasonable compensation for such extra expense actually incurred, not exceeding one dollar and twenty-five cents per day to officers who are not entitled to forage, and not exceeding one dollar per day to such as shall be entitled to forage.

SEC. 21. *And be it further enacted*, That no non-commissioned officer, musician, or private, during the term of his service, shall be arrested on mesne process, or taken, or charged in execution of any debt or debts contracted before enlistment, which were severally under twenty dollars at the time of contracting the same, nor for any debt whatever contracted after enlistment.

SEC. 22. *And be it further enacted*, That whenever any officer or soldier shall be discharged from the service, except by way of punishment for any offence, he shall be allowed his pay and rations, or an equivalent in money, for such term of time as shall be sufficient for him to travel from the place of discharge to the place of his residence, computing at the rate of twenty miles to a day.

SEC. 23. *And be it further enacted*, That the subsistence of the officers of the army, when not received in kind, shall be estimated at twenty cents per ration.

SEC. 24. *And be it further enacted*, That there shall be appointed to each brigade, one chaplain, who shall be entitled to the same pay and emoluments as a major in the infantry.

SEC. 25. *And be it further enacted*, That no general field, or staff officer, who may be appointed by virtue of this act, shall be entitled to receive any pay or emoluments until he shall be called

into actual service, nor for any longer time than he shall continue therein.

Approved, January 11, 1812.

An Act directing the terms on which lands sold at public sale, and that revert for failure in payment, shall again be sold.

Be it enacted, &c., That no tract or tracts of the reserved sections, or other public lands of the United States, that have been or may hereafter be sold at public sale, and which may have, or shall, on account of failure to complete the payment of the purchase-money, revert to the United States, shall hereafter be sold at private sale, at a price less than that for which the same tract was sold at public sale.

Approved, January 14, 1812.

An Act authorizing the purchase of ordnance and ordnance stores, camp equipage, and other quartermaster's stores, and small arms.

Be it enacted, &c., That the sum of one million five hundred thousand dollars be and the same is hereby appropriated for the purchase, under the direction of the President of the United States, of ordnance and ordnance stores, camp equipage, and other quartermaster's stores, for the use of the Army of the United States.

SEC. 2. *And be it further enacted*, That the sum of four hundred thousand dollars be and the same is hereby appropriated, for the purchase, under the direction of the President of the United States, of saltpetre and sulphur, for making the same into powder, and for ordnance and small arms, for the use of the Navy of the United States.

Approved, January 14, 1812.

An Act to alter the time of holding the District Courts of the United States, for the North Carolina district.

Be it enacted, &c., That, instead of the time heretofore established by law for the sessions of the district courts of the United States, in the North Carolina district, the said courts shall hereafter commence and be holden on the following days in each year, that is to say: At Edenton, in and for the district of Albemarle, on the third Monday of April and third Monday of October; at Newbern, in and for the district of Pamptico, on the first Monday after the third Monday of April, and third Monday of October; at Wilmington, in and for the district of Cape Fear, on the second Monday after the third Monday of April, and third Monday of October; anything contained in any former act or acts to the contrary notwithstanding. And all actions, suits, process, pleadings, recognisances, and all other proceedings, of what nature or kind soever, civil or criminal, commenced, or to be commenced, and made returnable to any of the said courts, in the month of February next, shall be continued, respectively, and shall be returned to and have day in the term of said courts next to be holden by virtue of this act; and the same proceedings shall be had thereon, with the same effect and power, they would have had if this alteration had not been made.

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SEC. 2. *And be it further enacted*, That, if the judge of the district courts aforesaid should fail to attend on the first day of the term of any of the said courts, respectively, it shall and may be lawful for the marshal of the district, and he is hereby authorized, to adjourn the said court or courts until the next succeeding day; and if the said judge does not attend before the expiration of the second day of the term of the said court or courts, respectively, it shall and may be lawful for the marshal aforesaid to adjourn the said court or courts to the term next in course; anything in any former act or acts to the contrary notwithstanding.

Approved January 23, 1812.

An Act to continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers."

Be it enacted, &c., That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled, "An act further to protect the commerce and seamen of the United States against the Barbary Powers," as is contained in the first section of the said act, and which was revived and continued in force for the time therein mentioned, by an act, entitled "An act to revive and continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" passed on the twelfth day of January, one thousand eight hundred and ten, be and the same is hereby continued in force until the fourth day of March, one thousand eight hundred and thirteen: *Provided, however*, That the additional duty laid by the said section shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, January 31, 1812.

An Act to alter the times of holding the District Courts within and for the District of Connecticut.

Be it enacted, &c., That the district court within and for the district of Connecticut shall hereafter be holden on the fourth Tuesdays of February, May, August, and November, in each year, any law to the contrary notwithstanding. And that all actions, suits, writs, process, pleadings, or other proceedings, commenced or to be commenced, or which are now pending in the district court in said district, may be returned to, and shall be continued to the district court to be holden on the fourth Tuesday of February, one thousand eight hundred and twelve, as is herein provided.

Approved, February 6, 1812.

An Act authorizing the President of the United States to accept and organize certain Volunteer and Military Corps.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to

accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, not exceeding fifty thousand men; who shall be clothed, and, in case of cavalry, furnished with horses, at their own expense, and armed and equipped at the expense of the United States, after they shall be called into service; and whose commissioned officers shall be appointed in the manner prescribed by law in the several States and Territories to which such companies shall respectively belong: *Provided*, That where any company, battalion, regiment, brigade, or division, of militia, already organized, shall tender their voluntary service to the United States, such company, battalion, regiment, brigade, or division, shall continue to be commanded by the officers holding commissions in the same, at the time of such tender; and any vacancy thereafter occurring, shall be filled in the mode pointed out by law in the State or Territory wherein the said company, battalion, regiment, brigade, or division, shall have been originally raised.

SEC. 2. *And be it further enacted*, That any company, battalion, regiment, brigade, or division, thus offering itself for the service, shall be liable to be called upon to do military duty at any time the President of the United States shall judge proper, within two years after he shall have accepted the same; and shall be bound to continue in service for the term of twelve months after they shall have arrived at the place of rendezvous, unless sooner discharged; and when so called into service, and whilst remaining therein, shall be entitled to the same pay, rations, forage, and emoluments, of every kind, bounty and clothing excepted, with the regular troops of the United States: *Provided*, That, in lieu of clothing, every non-commissioned officer and private in any company, who may thus offer themselves, shall be entitled, when called into service, to receive in money a sum equal to the cost of the clothing of a non-commissioned officer or private, (as the case may be,) in the regular troops of the United States.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to organize the companies so tendering their service as aforesaid, into battalions, squadrons, regiments, brigades, and divisions, as soon as the number of volunteers shall render such organization, in his judgment, expedient; but, until called into actual service, such companies are not to be considered as exempt from the performance of militia duty, as is required by law, in like manner as before the passage of this act.

SEC. 4. *And be it further enacted*, That in case any volunteer abovementioned, while in actual service, shall sustain any damage, by injury done to his horse, or such other equipment as shall have been furnished at his own expense, or by loss of the same, without any fault or negligence on his part, a reasonable sum, to be ascertained in such manner as the President of the United States may direct, shall be allowed and paid to

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such volunteer, for each and every such loss or damage.

SEC. 5. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalid pensioners of the United States, at such rate of pension, and under such regulations, as are or may be directed by law: *Provided always*, That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being wounded or disabled, and that no officer shall receive more than the half pay of a lieutenant colonel: And that the rate of pension to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided also*, That all inferior disabilities shall entitle the persons so disabled to receive an allowance proportionate to the highest disability.

SEC. 6. *And be it further enacted*, That the heirs and representatives of any non-commissioned officer or soldier, who may be killed in action, or die in the actual service of the United States, shall be entitled to receive one hundred and sixty acres of land; to be designated, surveyed, and laid off, at the public expense, in such manner, and upon such terms and conditions, as may be provided by law.

SEC. 7. *And be it further enacted*, That upon the discharge of any non-commissioned officer or soldier, who shall have been accepted under the provisions of this act, and shall have been in actual service for a period not less than one month, and shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty while in service, such non-commissioned officer or soldier, if attached to the artillery or infantry, shall be presented with a musket, bayonet, and other personal equipments; or, if attached to the cavalry, with a sabre and pistols furnished him by the United States, as a public testimony of the promptitude and zeal with which he shall have volunteered in support of the rights and honor of the country.

SEC. 8. *And be it further enacted*, That the sum of one million of dollars be appropriated to defray the expenses which may be incurred under the provisions of this act, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 6, 1812.

An Act for the revision of former confirmations, and for confirming certain claims to land in the District of Kaskaskia.

Be it enacted, &c., That the register and receiver of public moneys of the land office at Kaskaskia, and such other person as the President of the United States shall appoint for that purpose, be, and they are hereby, authorized to examine and inquire into the validity of claims to land in

the district of Kaskaskia, which are derived from confirmations made, or pretended to have been made, by the Governors of the Northwest and Indiana Territory, respectively. They shall employ a clerk, and shall, in relation to the claims aforesaid, have, in every respect, the same power which had been vested in the Commissioners appointed to ascertain the claims to land in the said district. And they shall report to the Secretary of the Treasury, to be by him laid before Congress at their next session, their opinion on each of the claims aforesaid.

SEC. 2. *And be it further enacted*, That the Commissioners and clerk, appointed by this act, and such agent, as may be appointed on behalf of the United States by the Secretary of the Treasury, shall each receive five hundred dollars, in full for the services performed by them under this act; which compensation, and also the contingent charges for office rent, fuel, stationery, and summoning witnesses on the part of the United States, shall be paid out of the moneys appropriated by law for surveying the public lands of the United States.

SEC. 3. *And be it further enacted*, That the decisions made by the Commissioners, heretofore appointed for the purpose of examining the claims of persons to lands in the district of Kaskaskia, in favor of such claimants to town or village lots, out lots, or rights in common, to commons and common fields, as entered in the transcripts of decisions, bearing date the thirty-first day of December, one thousand eight hundred and nine, which have been transmitted by the said Commissioners to the Secretary of the Treasury, according to law, be confirmed to all such rightful claimants, according to their respective rights thereto: *Provided*, That nothing herein contained, shall be construed to confirm any particular decision, heretofore made in favor of any individual, or to affect the right of any other individual claiming the same land; but such conflicting claims shall be decided according to law, by the proper tribunal.

Approved, February 20, 1812.

An Act making an appropriation for the expenses incident to the six companies of Mounted Rangers, during the year one thousand eight hundred and twelve.

Be it enacted, &c., That the sum of one hundred and eight thousand seven hundred and seventy-two dollars be, and the same is hereby, appropriated for the pay, subsistence, and forage, during the year one thousand eight hundred and twelve, of the companies of mounted rangers, to be raised for the service of the United States, pursuant to an act, entitled "An act authorizing the President of the United States to raise certain companies of rangers, for the protection of the frontier of the United States," that is to say:

For the pay of the officers, non-commissioned officers, and privates, of the said companies, the sum of one hundred and four thousand eight hundred dollars.

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For the subsistence of the officers, the sum of two thousand, six hundred twenty-eight dollars.

For forage, the sum of one thousand three hundred and forty-four dollars. The said sums to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

Approved, February 20, 1812.

An Act authorizing the Secretary of the Treasury to locate the lands reserved for the use of Jefferson College, in the Mississippi Territory.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and empowered to locate, in one body, the thirty-six sections of land reserved for the use of Jefferson College in the Mississippi Territory, by an act, entitled "An act regulating the grants of land, and providing for the sale of the lands of the United States south of the State of Tennessee," passed on the third day of March, one thousand eight hundred and three, on any lands within the said Territory not sold, or otherwise disposed of, and to which the Indian title has been extinguished.

Approved, February 20, 1812.

An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States.

Be it enacted, &c., That it shall be lawful for the Circuit Court of the United States to be holden in any district in which the present provision, by law, for taking bail and affidavits in civil causes (in cases where such affidavits are, by law, admissible) is inadequate, or, on account of the extent of such district, inconvenient, to appoint such and so many discreet persons, in different parts of the district as such court shall deem necessary, to take acknowledgments of bail and affidavits; which acknowledgments of bail and affidavits shall have the like force and effect as if taken before any judge of said court; and any person swearing falsely, in and by any such affidavit, shall be liable to the same punishment as if the same affidavit had been made or taken before a judge of said court.

SEC. 2. *And be it further enacted,* That the like fees shall be allowed, for taking such bail and affidavit, as are allowed for the like services by the laws of the State, in which any such affidavit or bail shall be taken.

SEC. 3. *And be it further enacted,* That, in any cause before a court of the United States, it shall be lawful for such court, in its discretion, to admit in evidence any deposition taken in perpetuam rei memoriam, which would be so admissible in a court of the State wherein such cause is pending according to the laws thereof.

Approved, February 20, 1812.

An Act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and twelve.

Be it enacted, &c., That, for defraying the expenses of the Military Establishment of the United States for the year one thousand eight hun-

dred and twelve, for the Indian department, and for the expense of fortifications, magazines, arsenals, and armories, the following sums, including the sum of one million five hundred thousand dollars already appropriated, by the first section of the act, entitled "An act authorizing the purchase of ordnance and ordnance stores, camp equipage, and other quartermaster's stores and small arms," be, and the same hereby are, respectively appropriated; that is say:

For the pay of the Army of the United States, eight hundred and sixty-nine thousand nine hundred and sixty-eight dollars.

For forage, one hundred and four thousand six hundred and twenty-four dollars.

For subsistence, six hundred and eighty-five thousand five hundred and thirty-two dollars, and five cents.

For clothing, two hundred and ninety-three thousand eight hundred and four dollars.

For bounties and premiums, seventy thousand dollars.

For the medical and hospital department, fifty thousand dollars.

For ordnance and ordnance stores, one million one hundred and thirty-five thousand dollars.

For fortifications, arsenals, magazines, and armories, including two thousand dollars for such a number of additional military storekeepers as may be required, two hundred and ninety-six thousand and forty-nine dollars and seventy-five cents.

For the Quartermaster General's department, including camp equipage, fuel, tools, barracks, quarters, wagons, and transportation, seven hundred and thirty-five thousand dollars.

For the purchase of horses for the dragoons and light artillery, one hundred and fifty thousand dollars.

For contingencies, fifty thousand dollars.

For purchasing maps, plans, books, and instruments, two thousand five hundred dollars.

For the salary of the clerks employed in the military agents' offices, and in the office of the Inspector of the Army, three thousand five hundred dollars.

For the Indian department, one hundred and sixty-four thousand five hundred dollars.

For expenses of calling into actual service, in the years one thousand eight hundred and nine, one thousand eight hundred and ten, and one thousand eight hundred and eleven, the militia of the Louisiana and Indiana Territories, and State of Kentucky, thirty two thousand eight hundred dollars.

SEC. 3. *And be it further enacted,* That the several sums specifically appropriated by this act shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 21, 1812.

An Act making appropriations for the support of an Additional Military Force.

Be it enacted, &c., That, for defraying the necessary expense, to the first day of January next,

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of the troops to be raised by virtue of an act, entitled "An act to raise an additional military force," passed on the eleventh day of January, one thousand eight hundred and twelve, the following sums be and the same hereby are respectively appropriated, that is to say:

For pay, one million four hundred and six thousand eight hundred and fifty-one dollars and ninety-five cents.

For forage, one hundred and fifty-four thousand four hundred and thirty-five dollars and thirty cents.

For subsistence, one million seventy-four thousand and ninety-seven dollars and sixty-seven cents.

For clothing, eight hundred and sixty-three thousand two hundred and forty-four dollars.

For bounties and premiums, four hundred and forty-two thousand two hundred and sixty dollars.

For the purchase of horses for the dragoons, and for the purchase of horses for the transportation of heavy artillery, ammunition, and baggage, two hundred and eighty-two thousand dollars.

For the Quartermaster General's department, including harness and other equipage, quarters, fuel, tools, and transportation, four hundred and eight thousand seven hundred and sixty dollars.

For the medical and hospital department, one hundred and twenty-five thousand dollars.

For contingencies, three hundred and fifty-five thousand nine hundred and eleven dollars and seventeen cents.

Sec. 2. *And be it further enacted*, That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, February 21, 1812.

An Act to establish a land district in the Illinois Territory, east of the District of Kaskaskia, and to attach certain public lands to the District of Jeffersonville.

Be it enacted, &c., That so much of the public lands of the United States, heretofore included within the land district of Kaskaskia, as lies east of the third principal meridian, established by the Surveyor General, shall, together with the public lands lying between the Vincennes and Kaskaskia districts, and not heretofore attached to any district, form a new land district. For the disposal of the said lands, a land office shall be established at Shawneetown, under the direction of the Register of the Land Office and Receiver of Public Moneys, to be appointed for that purpose; who shall reside at the place, give security in the same manner, in the same sums, and whose compensation, emoluments, and duties, and authority, shall, in every respect, be the same in relation to the lands which shall be disposed at their office, as are, or may be, by law provided in relation to the Registers and Receivers of Public Moneys in the several offices established for the disposal of the lands of the United States northwest of the river Ohio.

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Sec. 2. *And be it further enacted*, That the said lands shall be disposed of in the same manner, and on the same terms and conditions, as are, or may be, provided by law for the sale of public lands in the district of Kaskaskia: *Provided*, That no tracts of land, excepted from the sales by virtue of any former act, shall be sold by virtue of this act: *And provided, also*, That a tract of not less than six miles square shall be reserved by the President of the United States for the use and support of the public salt works on Saline creek.

Sec. 3. *And be it further enacted*, That so much of the lands attached to the district of Vincennes, by virtue of the first section of an act, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," passed on the thirtieth day of April, one thousand eight hundred and ten, as lies east of the second principal meridian established by the Surveyor General, shall be attached to and become a part of the district of Jeffersonville, and shall be offered at public sale at the land office for the said district, under the superintendence of the Register and Receiver of Public Moneys for the said land office, and shall be sold, in every other respect, in the same manner, and on the same terms and conditions, as are provided by the abovementioned act, except that the public sales for the said lands shall remain open only for six days.

Approved, February 21, 1812.

An Act making appropriations for the support of the Navy of the United States, for the year one thousand eight hundred and twelve.

Be it enacted, &c., That, for the defraying the expenses of the Navy, during the year one thousand eight hundred and twelve, the following sums, including therein the sum of four hundred thousand dollars already appropriated, by the act, entitled "An act authorizing the purchase of ordnance stores, camp equipage, and other Quartermaster's stores, and small arms," be and the same hereby are respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, one million one hundred and twenty-three thousand three hundred and forty-one dollars.

For provisions, five hundred and fifty-nine thousand seven hundred and fifty-seven dollars.

For medicines, instruments, hospital stores, and all expenses on account of the sick, forty thousand dollars.

For repairs of vessels, three hundred and fifteen thousand dollars.

For freight, store-rent, and all other contingent expenses, one hundred and fifteen thousand dollars.

For the expenses of navy yards, comprising docks and other improvements, pay of superintendents, storekeepers, clerks, and laborers, sixty thousand dollars.

For ordnance and ordnance stores, comprising

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cannon, carronades, muskets, pistols, and other small arms, cannon ball and shot of every description, two hundred and eighty thousand dollars.

For the purchase of saltpetre and sulphur, and for making the same into powder, one hundred and eighty thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore, and forage for the staff, one hundred and fifty-four thousand three hundred and forty-six dollars and eighty cents.

For clothing for the same, forty-nine thousand two hundred and eighty-one dollars and sixty cents.

For military stores for the same, one thousand seven hundred and seventy-seven dollars and fifty cents.

For medicines, medical services, hospital stores, and all other expenses on account of the sick, belonging to the marine corps, three thousand five hundred dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting men, musical instruments, bounty to music, and other contingent expenses of the marine corps, twenty thousand dollars.

For the relief of the legal representatives of David Valenzin, deceased, being the amount of a former appropriation for that object, carried to the surplus fund, two thousand six hundred and sixty-five dollars and seventy cents.

SEC. 2. *And be it further enacted*, That the several sums, specifically appropriated by this act, shall be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 24, 1812.

An Act supplementary to "An act to raise, for a limited time, an additional military force," passed on the twelfth day of April, one thousand eight hundred and eight.

Be it enacted, &c., That, whenever, in the opinion of the President of the United States, it is expedient to mount the light artillery, or any part thereof, horses and accoutrements shall be provided to equip the whole, or such part as he may direct; and when the non-commissioned officers, musicians, artificers, and privates, are so equipped, the officers shall be entitled to the same forage as is now provided for the officers of the same grade in the regiment of light dragoons: *Provided*, The officers furnish their own horses and accoutrements, and actually keep in service the same number of horses to entitle them to the aforesaid allowance for forage, or its equivalent in money.

SEC. 2. *And be it further enacted*, That, whenever the said light artillery are ordered to be mounted, there shall be provided one saddler and one farrier to each company, who shall be entitled to the same pay and emoluments as are now provided for saddlers and farriers in the regiment of light dragoons.

Approved, February 24, 1812.

An Act making appropriations for the support of Government for the year one thousand eight hundred and twelve.

Be it enacted, &c., That, for the expenditure of the Civil List in the present year, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint establishment; for the expense of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands; and for satisfying certain miscellaneous claims, the following sums be and the same are hereby respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars.

For the expense of fire-wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, fifty thousand dollars.

For all contingent expenses of the Library of Congress, and for the Librarian's allowance for the year one thousand eight hundred and twelve, eight hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that department, including the sum of one thousand four hundred and seventy-eight dollars, in addition to the sum allowed for the compensation of his clerks by the act of the twenty-first of April, one thousand eight hundred and six, twelve thousand nine hundred and thirteen dollars.

For compensation to a clerk on old records in the said department, for the year eighteen hundred and eleven, and the year eighteen hundred and twelve, fifteen hundred and seventy-four dollars.

For additional compensation to the clerks in the said department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out of certain public roads, and for other purposes," one thousand seventy-two dollars and fifty cents.

For the incidental and contingent expenses of the said department, one thousand three hundred and fifty dollars.

For printing and distributing the laws of the first session of the twelfth Congress, and printing the laws in newspapers, five thousand five hundred dollars.

For printing and binding five hundred copies of the census of one thousand eight hundred and ten, four thousand six hundred dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including the sum of one thousand seven

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hundred and fifty dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, and the further sum of seven hundred and fifty dollars to make good a deficiency in the appropriation of the year one thousand eight hundred and eleven, seventeen thousand and seventy-four dollars and eighty-one cents.

For expense of translating foreign languages, allowance to the person employed in transmitting passports and sea-letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, including the sum of one thousand six hundred and thirty-nine dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, thirteen thousand nine hundred and seventy-eight dollars and fifty cents.

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, five hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, eleven thousand seven hundred and seventy-one dollars.

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, five thousand seven hundred and seventy-seven dollars and forty-five cents.

For expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, fifteen thousand seven hundred and fifty-two dollars and two cents.

For additional compensation to the clerks in the Treasury Department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," six thousand six hundred and thirty-four dollars and seven cents.

For compensation to the messenger of the Register's office, for stamping and arranging ship's registers, ninety dollars.

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars.

For fuel and other contingent and incidental expenses of the Treasury Department, four thousand dollars.

For the purchase of books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For compensation to a superintendent, employed to secure the buildings and records of the

Treasury Department, during the year one thousand eight hundred and twelve, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars.

For defraying the expense of stating and printing the public accounts for the year one thousand eight hundred and twelve, twelve hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, including the sum of one thousand two hundred dollars for clerk hire, in addition to the sum allowed by the act of April twenty-first, one thousand eight hundred and six, eleven thousand three hundred and twenty-five dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of War, one thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, including the sum of two thousand dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, twelve thousand six hundred and ten dollars.

For additional compensation to the clerks in the War Department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," two thousand two hundred and twenty-six dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to the clerks employed in the Paymaster's office, including the sum of three hundred and twelve dollars for deficiency in the appropriation of the year one thousand eight hundred and eleven, and a further sum of one thousand two hundred dollars in addition to the sum heretofore appropriated for that object, four thousand nine hundred and twelve dollars.

For contingent expenses in the said office, two hundred dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for said office, including the sum of five hundred dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, five thousand one hundred dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, eight thousand six hundred and eighty-five dollars.

For expenses of stationery, fuel, printing, and other contingent expenses in the said office, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, ten thousand one hundred and ten dollars.

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For contingent expenses in the office of the Accountant of the Navy, one thousand dollars.

For additional compensation to the clerks in the Navy Department, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," one thousand nine hundred and thirty-five dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including the sum of two thousand seven hundred and forty-five dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, seventeen thousand nine hundred and seventy-five dollars.

For the expense of fuel, house rent for the messenger, candles, stationery, chests, &c., incident to the Postmaster General's office, two thousand five hundred dollars.

For additional compensation to the clerks employed in the Postmaster General's office, not exceeding fifteen per centum, in addition to the sum allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," one thousand four hundred and one dollars and seventy-five cents.

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars.

For compensation to the clerks of the Commissioners of Loans, and for allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expense of the several loan offices, fifteen thousand dollars.

For compensation to the Surveyor General, and his clerks, three thousand two hundred dollars.

For compensation to the Surveyor of the lands south of Tennessee, clerks employed in his office, and for stationery and other contingencies, including the sum of fifteen hundred dollars for clerk hire, in addition to the sums heretofore appropriated for that object, four thousand seven hundred dollars.

For compensation to the officers of the Mint, viz :

The Director, two thousand dollars.

The Treasurer, one thousand two hundred dollars.

The Assayer, one thousand five hundred dollars.

The Chief Coiner, one thousand five hundred dollars.

The Melter and Refiner, one thousand five hundred dollars.

The Engraver, one thousand two hundred dollars.

One clerk at seven hundred dollars, and one clerk at five hundred dollars.

For wages to the persons employed in melting, coining, carpenters', millwrights', and smiths' work, including the sum of one thousand dollars, allowed to an assistant coiner and die forger, who

also oversees the execution of the iron work, and of six hundred dollars allowed to an assistant engraver, eight thousand five hundred dollars.

For repairs of furnaces, cost of rollers and screws, timber, bar iron, lead, steel, potash, and for all other contingencies of the Mint, three thousand three hundred and fifty dollars.

For an allowance for wastage in gold and silver coinage, three thousand dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, thirteen thousand dollars.

For clerk hire, expense of stationery, and other contingent expenses of said Territory, one thousand eight hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, including the sum of six hundred dollars for clerk hire, in the year one thousand eight hundred and eleven, nine thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Indiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Illinois Territory, six thousand six hundred dollars.

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For compensation granted by law to the Chief Justice, the Associate Judges, and District Judges of the United States, including the Chief Justice and two Associate Judges for the District of Columbia; to the Attorney General, and to the District Judge of the Territory of Orleans, including the sum of one thousand dollars for the payment of the additional salaries for the year one thousand eight hundred and eleven, allowed to the Judges of the District of Columbia, by the act of the third of March, one thousand eight hundred and eleven, sixty thousand nine hundred and fifty dollars.

For the like compensation granted to the sev-

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eral District Attorneys of the United States, three thousand four hundred dollars.

For compensation granted to the several Marshals for the districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky, Ohio, East and West Tennessee, and Orleans, two thousand two hundred dollars.

For defraying the expenses of the Supreme, Circuit and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe-keeping of prisoners, forty thousand dollars.

For the payment of a balance due for the salary of Robert H. Harrison, deceased, formerly a Judge of the Supreme Court of the United States, the same having heretofore been carried to the surplus fund, five hundred and fifty-six dollars and sixteen cents.

For the payment of sundry pensions granted by the late and present Government, nine hundred and sixty dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and twelve, to the fourth of March, one thousand eight hundred and thirteen, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stages of channels, bars and shoals, and certain contingent expenses, ninety-three thousand one hundred dollars and sixty-seven cents.

For defraying the expense of surveying the public land within the several Territories of the United States, forty-eight thousand six hundred and twenty dollars.

For surveying the coast of the United States, being the balance of a former appropriation carried to the credit of the surplus fund, forty-nine thousand two hundred and eighty-four dollars and twenty-five cents.

For expenses of intercourse with foreign nations, seventy-three thousand dollars.

For the contingent expenses of intercourse with foreign nations, one hundred thousand dollars.

For expenses of intercourse with the Barbary Powers, fifty thousand dollars.

For the relief and protection of distressed American seamen, fifteen thousand dollars.

For defraying the expenses of regulating laying out, and making a road from Cumberland, in the State of Maryland, to Ohio, agreeably to an act of Congress, passed the twenty-ninth day of March, one thousand eight hundred and six, being so much of a former appropriation carried to the surplus fund, at the close of the year one thousand eight hundred and eleven, three thousand seven hundred and eighty-six dollars and sixty cents.

For expenses of prosecuting claims and appeals in the courts of Great Britain, in relation to captures of American vessels, and defending causes elsewhere, four thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

For defraying the expenses authorized by the eleventh section of the act of March the second, eighteen hundred and eleven, entitled "An act for establishing trading-houses with the Indian tribes," to be drawn annually by the President of the United States, for the payment of agents, assistant agents, and clerks, including the sum of eleven thousand sixty-two dollars and fifty cents, which had accrued by said act, for the year eighteen hundred and eleven, twenty-five thousand eight hundred and twelve dollars and seventy-six cents.

SEC. 2. *And be it further enacted,* That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Approved, February 26, 1812.

An Act to authorize the Secretary of the Treasury, under the direction of the President of the United States, to purchase of Winslow Lewis his patent right to the new and improved method of lighting Light-houses, and for other purposes.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and empowered, under the directions of the President of the United States, to purchase of Winslow Lewis his patent right to the plan of lighting light-houses, by reflecting and magnifying lanterns, if the same shall be proved to be a discovery made by him; and to contract with the said Winslow Lewis for fitting up and keeping in repair any or all the light-houses in the United States, or the Territories thereof, upon the new and improved plan of the reflecting and magnifying lanterns; or to contract with the said Winslow Lewis for such sum as he may think for the interest of the United States: *Provided,* The sum so to be allowed shall not in any case annually exceed the appropriation made for supplying the light-house establishment with oil in any given year, which has passed for a term not exceeding seven years, the said Lewis covenantee, with sufficient sureties, to fit up and keep in repair all the light-houses in the United States, or Territories thereof, on the new and improved plan of lighting light-houses by reflecting and magnifying lanterns; and the same to furnish and keep in repair for a term of years not less than seven, at the sole expense of the said Winslow Lewis, and to deliver over at the expiration of the term aforesaid, all the light-houses fitted up according to the new and improved plan, to the United States in good repair, he, the said Winslow Lewis, warranting the same to remain in good repair for seven years more, from and after the expiration of the said contract.

SEC. 2. *And be it further enacted,* That a sum not exceeding sixty thousand dollars be and the

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same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to carry this law into effect.

Approved, March 2, 1812.

An Act supplementary to "An act providing for the accommodation of the General Post Office and Patent Office, and for other purposes."

Be it enacted, &c., That the Postmaster General, under the direction of the President of the United States, be authorized to repair and finish, in a suitable manner, for the accommodation of the Post Office Department and the Patent Office, the two stories of the building purchased for the Government, by authority of the aforesaid act, being the first and second stories, including also sundry repairs on the outside and in the garret of said building, upon the principles stated in the report of the Postmaster General, dated January fifteen, one thousand eight hundred and twelve.

SEC. 2. *And be it further enacted,* That as soon as the repairs can be properly made, and before the commencement of the next annual session of Congress, the General Post Office and the City Post Office shall be removed to said public building.

SEC. 3. *And be it further enacted,* That, for the purpose of completing the aforesaid work, there be appropriated, from any moneys in the Treasury not otherwise appropriated, the sum of thirteen thousand two hundred and forty-seven dollars and sixty-one cents, including the sum of two thousand three hundred dollars, now in the Treasury, and also the sum of one thousand three hundred and ninety-three dollars and seventy cents, now in the hands of Thomas Munroe, Superintendent of the City of Washington, being unexpended balances of the sum of twenty thousand dollars, authorized by the act of April twenty-eighth, one thousand eight hundred and ten, to which this act is a supplement.

Approved, March 7, 1812.

An Act for the relief of the Board of Commissioners west of Pearl river.

Be it enacted, &c., That the proper accounting officers of the Treasury be and they are hereby directed to audit and settle the accounts of the Board of Commissioners west of Pearl river, in the Mississippi Territory, and to allow each of them the sum of six dollars per day for every day's actual attendance on the board, subsequent to the first day of April, one thousand eight hundred and six, except for the eighty-four days, already provided for.

Approved, March 10, 1812.

An Act making a further appropriation for the defence of our Maritime Frontier.

Be it enacted, &c., That the sum of five hundred thousand dollars be and the same is hereby appropriated, in addition to the sums already appropriated, for the purposes of fortifying and de-

fending the maritime frontier of the United States; and that the same be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, March 10, 1812.

An Act giving further time for registering claims to land in the western district of the Territory of Orleans.

Be it enacted, &c., That every person or persons claiming lands in the western district of the Territory of Orleans, who are actual settlers on the land which they claim, and whose claims have not been heretofore filed with the register of the land office, for the said district, shall be allowed until the first day of November next, to deliver notices in writing, and the written evidences of their claims to the register of the land office at Opelousas; and the notices and evidences so delivered within the time limited by this act, shall be recorded in the same manner, and on payment of the same fees, as if the same had been delivered before the first day of July, one thousand eight hundred and eight; but the rights of such persons as shall neglect so doing within the time limited by this act, shall, so far as they are derived from, or founded on any act of Congress, ever after be barred and become void, and the evidences of their claims never after admitted as evidence in any court of the United States against any grant derived from the United States.

SEC. 2. *And be it further enacted,* That the register and receiver of public moneys of the said land office at Opelousas, shall have the same powers and perform the same duties in relation to the claims thus filed before the first day of November next, as if notice of the same had been given before the first day of July, one thousand eight hundred and eight, except that their decisions shall be subject to the revision of Congress. And it shall be the duty of the said register and receiver to make, to the Secretary of the Treasury, a report of all the claims thus filed with the register of the land office, together with the substance of the evidence in support thereof, with their opinion, and such remarks thereon as they may think proper; which report, together with a list of the claims, which, in the opinion of the register and receiver ought to be confirmed, shall be laid by the Secretary of the Treasury before Congress at their next session, for their determination thereon. The said register and receiver shall have power to appoint a clerk, whose duty shall be the same, in relation to the claims filed as aforesaid, as was required of the clerk to the Board of Commissioners for adjusting claims to land in the said district; and the said register, and receiver, and clerk, shall each be allowed fifty cents for each claim filed according to this act, and on which a decision shall be made, whether such decision be in favor of, or against the claim; which allowance, of fifty cents, shall be in full compensation for their services under this act.

Approved, March 10, 1812.

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An Act to alter the time of holding the Circuit Courts of the United States at Knoxville, in the district east of Tennessee, in the State of Tennessee.

Be it enacted, &c., That so much of the first section of an act, entitled "An act to amend an act entitled an act establishing circuit courts, and abridging the jurisdiction of the District Courts of the Districts of Kentucky, Tennessee and Ohio," passed on the twenty-second day of March, eighteen hundred and eight, as provides that the sessions of the said Circuit Courts shall be held at Knoxville, in East Tennessee, on the third Monday of October annually, shall be and is hereby repealed; and, from and after the passing of this act, the said Circuit Courts shall be held at Knoxville, in the District of East Tennessee, on the second Monday in October, annually, and continue until all the business therein depending be disposed of; and that all actions, causes, pleas, processes, and other proceedings, relative to any cause, civil or criminal, which shall be returnable to, or depending in the said Circuit Court of the United States, to be held at Knoxville, on the third Monday of October next, shall be returned, and held continued to, and be proceeded upon, on the second Monday in October next in the same manner they would have been if this change had not been made.

Approved, March 10, 1812.

An Act respecting the enrolling and licensing of Steamboats.

Be it enacted, &c., That, from and after the passing of this act, a steamboat employed, or intended to be employed, only in a river or bay of the United States, owned wholly or in part by an alien, resident within the United States, may and shall be enrolled and licensed, as if the same belonged to a citizen of the United States, according to, and subject to all the conditions, limitations, and provisions, contained in the act, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," except that, in such case, no oath or affirmation shall be required that the said boat belongs to a citizen or citizens of the United States.

SEC. 2. *And be it further enacted,* That the owner or owners of such steamboat, upon application for enrollment or license, shall give bond to the collector of the district, to and for the use of the United States, in the penalty of one thousand dollars, with sufficient surety, conditioned, that the said boat shall not be employed in other waters than the rivers and bays of the United States.

Approved, March 12, 1812.

An Act authorizing a loan for a sum not exceeding eleven million of dollars.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to borrow, on the credit of the United States, a sum not exceeding eleven millions of dollars, at an in-

terest not exceeding six per centum per annum, payable quarter yearly, to be applied, in addition to the moneys now in the Treasury, or which may be received from other sources, to defray any of the expenses which have been, or may, during the present session of Congress, be authorized by law, and for which appropriations have been, or may, during the present session of Congress, be made by law: *Provided,* That no engagement nor contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums thus borrowed, at any time after the expiration of twelve years, from the first day of January next

SEC. 2. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a Commissioner of Loans, for the sum to be borrowed by virtue of this act, or for any part thereof, bearing an interest of six per centum, and reimbursable as aforesaid; which stock, thus created, shall be transferable in the same manner as is provided by law for the transfer of the existing public debt of the United States; and it is hereby further declared, that it shall be deemed a good execution of the said power to borrow, for the President of the United States to cause the said certificates of stock, or any part thereof, to be sold: *Provided,* That no such stock shall be sold under par.

SEC. 3. *And be it further enacted,* That so much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest and such part of the principal of the said debt as the United States are now pledged annually to pay or reimburse, is hereby pledged and appropriated for the payment of the interest, and for the reimbursement of the principal of the stock which may be created by virtue of this act; it shall accordingly be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund, yearly, such sum and sums as may be annually wanted to discharge the interest accruing on the said stock, and to reimburse the principal as the same shall become due and may be discharged, in conformity with the terms of the loan; and they are further authorized to apply, from time to time, such sum or sums, out of the said fund, as they may think proper, towards redeeming by purchase, and at a price not above par, the principal of the said stock, or any part thereof. And the faith of the United States is hereby pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.

SEC. 4. *And be it further enacted,* That it shall be lawful for any of the banks in the District of Columbia to lend any part of the sum authorized to be borrowed by virtue of this act, anything in

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any of their charters of incorporation to the contrary notwithstanding.

Approved, March 14, 1812.

An Act supplementary to "An act to raise an Additional Military Force."

Be it enacted, &c., That the non-commissioned officers, musicians, and privates, of the light dragoons, shall receive the same uniform clothing as is now provided by law for the artillery and infantry, excepting one pair of gaiters and four pairs of shoes, in lieu of which, each person shall be annually entitled to receive one pair of boots, and two pair of shoes.

SEC. 2. *And be it further enacted,* That the non-commissioned officers, musicians, and privates, of the regiment of light artillery, shall receive the same clothing as the light dragoons, when ordered to be mounted.

SEC. 3. *And be it further enacted,* That all the officers, excepting general officers, who may be appointed during the present session of Congress, under the "Act to raise an additional military force," shall take rank in such manner as the President of the United States shall direct, without regard to priority of appointment.

Approved, March 17, 1812.

An Act repealing the tenth section of the act to incorporate the subscribers to the Bank of the United States.

Be it enacted, &c., That the tenth section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," shall be, and the same is hereby, repealed.

Approved, March 19, 1812.

An Act to incorporate the Trustees of the Georgetown Lancaster School Society.

Be it enacted, &c., That John Laird, Henry Foxall, Stephen B. Balch, Robert Beverly, Robert Munro, John McDaniel, jr., David Wiley, Walter D. Addison, Daniel Bussard, Francis S. Key, Walter Smith, John Abbott, and their successors, duly elected or appointed, in manner hereinafter directed, be, and they are hereby made, declared, and constituted, a corporation and body politic, in law and in fact, to have continuance forever, by the name, style, and title, of "The Trustees of the Georgetown Lancaster School Society."

SEC. 2. *And be it further enacted,* That all and singular the lands, tenements, rents, annuities, rights, privileges, goods, and chattels, heretofore given, granted, devised or bequeathed, to the said school, or to any person or persons, for the use thereof, or that have been purchased for or on account of the same, be, and are hereby, vested in and confirmed to the said corporation: *And further,* That the said corporation may purchase, take, receive and enjoy, any lands, tenements, rents, annuities, rights, or privileges, or any goods, chattels, or other effects, of what kind or nature soever, which shall or may hereafter be given, granted, sold, bequeathed, or demised unto them,

by any person or persons, bodies politic or corporate, capable of making such gift, grant, sale, or bequest; and the said property, real and personal, to rent, sell, convey, and confirm, or otherwise dispose of, as fully and effectually as any person or persons, bodies politic or corporate, may or can do: *Provided,* That the clear annual income of all such property may not exceed the sum of five thousand dollars; and that the aforesaid property, real and personal, be considered as held in the trust, under the management, and at the disposal, of said corporation, for the purpose of defraying the expenses incidental to the said school.

SEC. 3. *And be it further enacted,* That the said corporation, by the name, style, and title aforesaid, be, and shall be hereafter, forever able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court or courts, or other places, and before any judge or judges, justice or justices, or other persons whatsoever, within the District of Columbia or elsewhere, in all and all manner of suits and actions, complaints, pleas, causes, matters, and demands, of whatsoever kind or nature they may be, in as full and effectual a manner as any other person or persons, bodies politic or corporate, may or can do.

SEC. 4. *And be it further enacted,* That the said corporation shall have full power and authority to make, have, and use a common seal, with such device and inscription as they shall think proper, and the same to break, alter, and renew, at their pleasure; to appoint a president, treasurer, secretary, and such other officers, as they may deem necessary and proper, either out of their own number or otherwise; to assign them their duties and to fix their compensation, and to remove any or all of them from office, appoint another or others in their place, as often as they shall think fit; to make, ordain, establish, and execute, such by-laws and ordinances as may be deemed useful for their own government and for the government of the school; and the same to alter, amend, or abrogate at pleasure; to fill up vacancies that may happen in their number, between two annual elections; and to determine upon, do, and transact all business and matters appertaining to the said corporation, agreeably to the rules, by-laws, and ordinances thereof, during their continuance in office: *Provided,* That not less than five trustees be a quorum to do business, and that no by-law, rule, or ordinance, shall be made repugnant to the laws of the District of Columbia.

SEC. 5. *And be it further enacted,* That there shall be a meeting of the members of the said society held on the second Monday in February next, and on the same day in every year thereafter, at the school-house erected by the said society, at which time and place the said members, or such of them as may be present, shall elect and choose by ballot, from their own number, twelve trustees to serve for the year ensuing their election, and until others shall be elected or appointed to serve in their place.

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SEC. 6. *And be it further enacted*, That the trustees shall keep, or cause to be kept, in suitable books for the purpose, just and proper entries of all proceedings and accounts of said school and corporation, and have them laid before the society at every annual meeting, previous to taking the votes; and shall always deliver the said books, together with all the property of said school and corporation, in good order, to their successors in office, whenever required.

SEC. 7. *And be it further enacted*, That children may be bound (in the manner now by law provided) to the said society; the deed, or articles of apprenticeship, to be executed on the part of the said society by any two of the trustees thereof; and it shall be agreed by the said deed, on the part of the said society, that every such child or children shall be provided with all necessary food, clothing, and lodging, and taught reading, writing, and arithmetic, and be placed in the service of, and under the control and management of, some discreet and fit person, competent to instruct and educate the said apprentice, in some trade or employment, which may enable such child or children to earn a living by honest industry.

Approved, March 19, 1812.

An Act to alter the times of holding the Circuit Court of the first district.

Be it enacted, &c., That, in lieu of the terms now established by law, the circuit court of the first circuit shall annually be holden as follows: At Portsmouth, on the first day of May, and at Exeter, on the first day of October, within and for the district of New Hampshire; at Newport, on the fifteenth day of June, and at Providence on the fifteenth day of November, within and for the district of Rhode Island; and at Boston, on the fifteenth day of May, and the fifteenth day of October, within and for the district of Massachusetts. And whenever any of the said days shall happen on a Sunday, then the said court, hereby directed to be holden on said day, shall be holden on the next day thereafter.

SEC. 2. *And be it further enacted*, That, all actions, suits, writs, processes, and other proceedings, which now are pending in said court, or which now are, or may hereafter be commenced for, or be returnable to the said court at the proper term thereof, now established by law, within and for the respective districts aforesaid, shall depend, have day, be returnable to, heard, tried, and determined in the said court, at the first term thereof, which shall hereafter be holden within and for the respective districts aforesaid, according to the provisions of this act, anything in any former act or acts to the contrary notwithstanding.

Approved, March 26, 1812.

An Act to establish a Quartermaster's Department, and for other purposes.

Be it enacted, &c., That there be, and hereby is, established a Quartermaster's department for

the Army of the United States, to consist of a Quartermaster General, four deputy quartermasters, and as many assistant deputy quartermasters, as, in the opinion of the President of the United States, the public service may require; the Quartermaster General and deputy quartermasters to be appointed by the President, by and with the advice and consent of the Senate; and the assistant deputy quartermasters by the President alone. And he hereby is authorized, moreover, to appoint such additional number of deputy quartermasters, not exceeding four, to be taken from the line or not, at his discretion, as in his judgment the public service may require.

SEC. 2. *And be it further enacted*, That, the Quartermaster General shall be entitled to the rank, pay, and emoluments of a Brigadier General, (under the act of the twelfth of April, one thousand eight hundred and eight,) with forage for two additional horses. The deputy quartermasters, when not taken from the line, shall be entitled to receive sixty dollars per month, five rations per day, and forage for two horses; but, if taken from the line, then such additional pay and emoluments as shall be equal to the foregoing provision. The assistant deputy quartermasters, when not taken from the line, shall be entitled to and receive forty dollars per month, three rations per day, and forage for one horse, but if taken from the line, then such additional pay and emoluments as shall be equal to the foregoing provision.

SEC. 3. *And be it further enacted*, That, in addition to their duties in the field, it shall be the duty of the Quartermaster General, his deputies, and assistant deputies, when thereto directed by the Secretary of War, to purchase military stores, camp equipage, and other articles requisite for the troops, and generally to procure and provide means of transport for the Army, its stores, artillery, and camp equipage. That the Quartermaster General shall account as often as may be required, and at least once in three months, with the Department of War, in such manner as shall be prescribed, for all property which may pass through his hands, or the hands of the subordinate officers in his department, or that may be in his or their care or possession, and for all moneys which he or they may expend in discharging their respective duties; that he shall be responsible for the regularity and correctness of all returns in his department, and that he, his deputies, and assistant deputies, before they enter on the execution of their respective offices, shall severally take an oath faithfully to perform the duties thereof.

SEC. 4. *And be it further enacted*, That, there shall be a Commissary General of Purchases, and as many deputy commissaries, as, in the opinion of the President of the United States, the public service may require, to be appointed by the President, by and with the advice and consent of the Senate.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Commissary General of Purchases, under the direction and supervision of the Secretary of War, to conduct the procuring

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and providing of all arms, military stores, clothing, and generally all articles of supply requisite for the military service of the United States; and it shall be the duty of the deputy commissaries, when directed thereto, either by the Secretary of War, the Commissary General of Purchases, or, in cases of necessity, by the Commanding General, Quartermaster General, or deputy quartermasters, to purchase all such of the aforesaid articles as may be requisite for the military service of the United States.

SEC. 6. *And be it further enacted*, That neither the Quartermaster General, nor the Commissary General, shall, directly or indirectly, be concerned or interested in carrying on the business of trade or commerce, or be owner in whole, or in part, of any sea vessel; nor shall either of them purchase, by himself, or another in trust for him, public lands, or any other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take, or apply to his own use, any emolument or gain, for negotiating or transacting any business in the said department, other than what shall be allowed by law; and if either the said Quartermaster General or Commissary General shall offend against any of the prohibitions of this act, the parties so offending shall, upon conviction, forfeit to the United States, the penalty of three thousand dollars, and may be imprisoned for a term not exceeding five years, and shall be removed from office, and be forever thereafter incapable of holding any office under the United States.

SEC. 7. *And be it further enacted*, That the salary of the Commissary General of Purchases shall be three thousand dollars per annum; and the compensation to a deputy commissary shall not exceed two and one half per centum on the public moneys disbursed by him, nor in any instance, the sum of two thousand dollars per annum.

SEC. 8. *And be it further enacted*, That the Commissary General of Purchases shall, before he enters upon his duties, give bond with sufficient surety, to be approved of by the Secretary of War, in the sum of fifty thousand dollars, and the deputy commissaries, each, in the sum of ten thousand dollars, with condition for the faithful performance of the duties of their office respectively, which bonds shall be lodged with the Comptroller of the Treasury.

SEC. 9. *And be it further enacted*, That, from and after the last day of May next, so much of the act, entitled "An act to establish the office of Purveyor of Public Supplies," as relates to the appointment and services of a Purveyor of Public Supplies, be, and the same is hereby, repealed; and, in the meantime, the Purveyor shall deliver over to the Commissary General, or one of his deputies, the public stores and property of all sorts in his possession, who shall receipt to him for the same.

SEC. 10. *And be it further enacted*, That, all letters and packets to and from the Quartermaster General and Commissary General shall be free from postage.

SEC. 11. *And be it further enacted*, That there be allowed, for the compensation of the necessary clerks in the Quartermaster General's office, a sum not exceeding fifteen hundred dollars a year; and for the compensation of the clerks of the Commissary General, a sum not exceeding seventeen hundred dollars per annum, with such books and stationery as may be necessary to the Quartermaster General's and Commissary General's departments.

SEC. 12. *And be it further enacted*, That the Quartermaster General be authorized to appoint a principal wagon master, and as many wagon masters as he may judge necessary for the service of the Army, not exceeding one to each brigade, whose duty shall be, under the direction of the Quartermaster General, or any of his deputies, to provide and conduct the wagons and other means of transport necessary and proper for the military service of the United States.

SEC. 13. *And be it further enacted*, That no wagon master shall, directly or indirectly, be concerned or interested in any wagon or means of transport employed in the service of the United States, nor in the purchase or sale of any horses, harness, wagons, or other means of transport, procured for, or belonging to the United States, except as agent for the United States.

SEC. 14. *And be it further enacted*, That the principal wagon master shall be entitled to receive forty dollars per month, three rations per day, and forage for one horse; and each wagon master shall be entitled to receive thirty dollars per month, two rations per day, and forage for one horse.

SEC. 15. *And be it further enacted*, That the Quartermaster General be authorized to appoint one principal forage master, and as many assistant forage masters as the nature of the service may require, not exceeding one to each brigade, whose duty shall be, under the direction of the Quartermaster General, or any of his deputies, to provide and deliver out forage necessary and proper for the military service of the United States; nor shall any forage master be directly or indirectly concerned in the purchase or sale of any article of forage procured for, or belonging to, the United States, except as an agent for the United States.

SEC. 16. *And be it further enacted*, That the principal forage master shall be entitled to and receive forty dollars per month, three rations per day, and forage for two horses; and that the other forage masters shall be entitled to and receive thirty dollars per month, two rations per day, and forage for one horse.

SEC. 17. *And be it further enacted*, That there shall be four conductors of artillery, who shall be appointed by the President alone, each of whom shall be entitled to the pay and emoluments of a lieutenant of artillery.

SEC. 18. *And be it further enacted*, That this act shall go into operation on the first day of April next; and that so much of the act fixing the military peace establishment of the United States, as respects the appointment of military

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agents and assistant military agents, be, and the same is hereby, repealed, from and after that day; but all those agents shall continue to perform their respective duties in the mean time, and until the deputy and assistant deputy quartermasters shall be appointed and ready to enter on the execution of their respective offices; to whom the said military agents and assistant military agents, shall then deliver all the public stores and property in their possession.

SEC. 19. *And be it further enacted*, That all persons attached to the public service by virtue of this act, shall be subject to military law, except the deputy commissaries.

SEC. 20. *And be it further enacted*, That the President may, and he hereby is authorized, in the recess of the Senate, to appoint the Quartermaster General, deputy quartermasters, Commissary General, and deputy commissaries, or any of them; which appointments shall be submitted to the Senate at their next session, for their advice and consent.

Approved, March 28, 1812.

An Act concerning the Naval Establishment.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to cause to be immediately repaired, equipped, and put into actual service, the frigates Chesapeake, Constellation, and Adams; and that a sum not exceeding three hundred thousand dollars be, and is hereby, appropriated for that purpose.

SEC. 2. *And be it further enacted*, That the officers and seamen of the Navy may be increased so far as may be necessary to officer, man, and equip the vessels so to be put into service, any law to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the sum of two hundred thousand dollars, annually, for three years, viz: one thousand eight hundred and twelve, one thousand eight hundred and thirteen, and one thousand eight hundred and fourteen, be appropriated towards the purchase and supply of a stock of every description of timber required for ship building and other navy purposes; and that the first appropriation thereof be made in the purchase of timber suitable for rebuilding the frigates Philadelphia, Gen'l Greene, New York, and Boston.

SEC. 4. *And be it further enacted*, That the sums herein specifically appropriated shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 5. *And be it further enacted*, That, as soon as it shall be deemed compatible with the good of the public service, the gunboats now in commission be laid up, and, with those not in commission, be distributed in the several harbors of the maritime frontier which are most exposed to attack, to be carefully kept and used as circumstances may require.

SEC. 6. *And be it further enacted*, That the pursers in the Navy of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Sen-

ate; and that, from and after the first day of May next, no person shall act in the character of pursuer, who shall not have been thus first nominated and appointed, excepting pursers on distant service who shall not remain in service after the first day of July next, unless nominated and appointed as aforesaid. And every purser, before entering upon the duties of his office, shall give bond, with two or more sufficient sureties, in the penalty of ten thousand dollars, conditioned faithfully to perform all the duties of purser in the Navy of the United States.

Approved, March 30, 1812.

An Act granting to the Corporation of the City of New Orleans the use and possession of a lot in the said city.

Be it enacted, &c., That all the right and claim of the United States to the use, possession, and occupancy, of a space of one hundred and fifty by one hundred and twenty-five feet of a vacant lot of ground, in the city of New Orleans, bounded by Bienville and Custom-house streets, and by Levee street, and the high road, be, and the same is hereby, vested in the corporation of the said city. And the said corporation is authorized to use, possess, and occupy the same, for the purpose of erecting, or causing to be erected and kept in operation, a steam engine, or engines, for conveying water into the said city, and all buildings necessary to the said purpose: *Provided*, That if the said space of ground shall not be occupied for the said purpose within the term of three years from and after the passing of this act, or shall, at any time thereafter, cease to be so occupied, for the term of three years, the right and claim of the United States thereto shall remain unimpaired: *And provided, also*, That this act shall not affect the claim or claims of any individual or individuals, if any such there be.

Approved, April 3, 1812.

An Act laying an embargo on all ships and vessels in the ports and harbors of the United States, for a limited time.

Be it enacted, &c., That an embargo be, and hereby is, laid, for the term of ninety days from and after the passing of this act, on all ships and vessels in the ports and places within the limits or jurisdiction of the United States, cleared or not cleared, bound to any foreign port or place; and that no clearance be furnished to any ship or vessel, bound to such foreign port or place, except vessels in ballast, with the consent of the President of the United States; and that the President be authorized to give such instructions to the officers of the revenue, and of the navy, and revenue cutters, of the United States, as shall appear best adapted for carrying the same into full effect: *Provided*, That nothing herein contained shall be construed to prevent the departure of any foreign ship or vessel, either in ballast or with the goods, wares, and merchandise, on board of such foreign ship or vessel, when notified of this act.

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SEC. 2. *And be it further enacted*, That, during the continuance of this act, no registered or sailable vessel shall be allowed to depart from any one port of the United States to any other within the same, unless the master, owner, consignee, or factor, of such vessel, shall first give bond, with one or more sureties, to the collector of the district from which she is bound to depart, in a sum of double the value of the vessel and cargo, conditioned that the goods, wares, or merchandise, with which she shall be laden, shall be reloaded in some port of the United States.

SEC. 3. *And be it further enacted*, That if any ship or vessel shall, during the continuance of this act, depart from any port of the United States, without a clearance or permit, or if any ship or vessel shall, contrary to the provisions of this act, proceed to a foreign port or place, or trade with, or put on board of, any other ship or vessel, any goods, wares, or merchandise, of foreign or domestic growth or manufacture, such ships or vessels, goods, wares, and merchandise, shall be wholly forfeited, and, if the same shall not be seized, the owner, or owners, agent, freighter, or factors, of any such ship or vessel, shall, for every such offence, forfeit and pay a sum equal to double the value of the ship or vessel and cargo, and shall never thereafter be allowed a credit for duties on any goods, wares, or merchandise, imported by him, or them, into any of the ports of the United States; and the master or commander of such ship or vessel, as well as all other persons who shall knowingly be concerned in such prohibited foreign voyage, shall each respectively forfeit and pay a sum not exceeding twenty thousand, nor less than one thousand, dollars, for every such offence, whether the vessel be seized and condemned or not; and the oath or affirmation of any master or commander, knowingly offending against the provisions of this section, shall ever thereafter be inadmissible before any collector of the customs of the United States.

SEC. 4. *And be it further enacted*, That all penalties and forfeitures arising under, or incurred by virtue of, this act, may be sued for, prosecuted, and recovered, with costs of suit, by action of debt, in the name of the United States of America, or by indictment or information, in any court having competent jurisdiction to try the same; and shall be distributed and accounted for in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine; and such penalties may be examined, mitigated, or remitted, in like manner, and under like conditions, regulations, and restrictions, as are prescribed, authorized and directed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," passed the third day of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh day of February, one thousand eight hundred: *Provided*, That all penalties and forfeitures which shall have been

incurred by virtue of this act, previous to the expiration thereof, may and shall thereafter be recovered and distributed in like manner, as if this act had continued in full force and virtue.

Approved, April 4, 1812.

An Act for the admission of the State of Louisiana into the Union, and to extend the laws of the United States to the said State.

Whereas the representatives of the people of all that part of the territory or country ceded, under the name of "Louisiana," by the treaty made at Paris, on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: beginning at the mouth of the river Sabine; thence, by a line to be drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river, and lakes Maurepas and Ponchartrain, to the Gulf of Mexico; thence bounded by the said Gulf to the place of beginning, including all islands within three leagues of the coast; did, on the twenty-second day of January, one thousand eight hundred and twelve, form for themselves a constitution and State government, and give to the said State the name of the State of Louisiana, in pursuance of an act of Congress, entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States, and for other purposes:" And the said constitution having been transmitted to Congress, and by them being hereby approved; therefore,

Be it enacted, &c., That the said State shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever, by the name and title of the State of Louisiana: *Provided*, That it shall be taken as a condition upon which the said State is incorporated in the Union, that the river Mississippi, and the navigable rivers and waters leading into the same, and into the Gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of the said State as to the inhabitants of other States and the Territories of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State; and that the above condition, and also all other the conditions and terms contained in the third section of the act, the title whereof is hereinbefore recited, shall be considered, deemed, and taken, fundamental conditions and terms, upon which the said State is incorporated in the Union.

SEC. 2. *And be it further enacted*, That, until the next general census and apportionment of

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Representatives; the said State shall be entitled to one Representative in the House of Representatives of the United States; and that all the laws of the United States not locally inapplicable shall be extended to the said State, and shall have the same force and effect within the same as elsewhere within the United States.

SEC. 3. *And be it further enacted*, That the said State, together with the residue of that portion of country which was comprehended within the Territory of Orleans, as constituted by the act, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," shall be one district, and be called the Louisiana district; and there shall be established in the said district a district court, to consist of one judge, who shall reside therein, and be called the district judge; and there shall be, annually, four stated sessions of the said court held at the city of Orleans; the first to commence on the third Monday in July next, and the three other sessions progressively, on the third Monday of every third calendar month thereafter. The said judge shall, in all things, have and exercise the same jurisdiction and powers which, by the act, the title whereof is in this section recited were given to the district judge of the Territory of Orleans; and he shall be allowed an annual compensation of three thousand dollars, to be paid quarter yearly at the Treasury of the United States. The said judge shall appoint a clerk of the said court, who shall reside, and keep the records of the court, in the city of Orleans, and shall receive, for the services performed by him, the same fees heretofore allowed to the clerk of the Orleans Territory.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said district a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid six hundred dollars, annually, as a full compensation for all extra services. There shall also be appointed a marshal for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees to which marshals in other districts are entitled for similar services; and shall, moreover, be paid two hundred dollars, annually, as a compensation for all extra services.

SEC. 5. *And be it further enacted*, That nothing in this act shall be construed to repeal the fourth section of an act, entitled "An act for laying and collecting duties on imports and tonnage within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes;" and that the collection district shall be and remain as thereby established.

SEC. 6. *And be it further enacted*, That this act shall commence and be in force from and after the thirtieth day of April, eighteen hundred and twelve.

Approved, April 8, 1812.

An Act in addition to the act, entitled "An act to raise an additional military force," passed January the eleventh, one thousand eight hundred and twelve.

Be it enacted, &c., That the President of the United States be, and he hereby is, empowered to cause to be enlisted for the term of eighteen months, unless sooner discharged, such part of the light dragoons, artillery, and infantry, authorized by the act, entitled "An act to raise an additional military force," as he may deem expedient: *Provided*, The whole number, so to be enlisted for eighteen months, shall not exceed fifteen thousand, anything in the said recited act to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the non-commissioned officers, musicians, and privates, so to be enlisted, shall be entitled to the bounty of sixteen dollars, and the same pay, clothing, and rations, the same provisions for wounds or disabilities, and to all other allowances (the bounty in land excepted) provided by the said before recited act, for the non-commissioned officers, musicians, and privates, who may be raised under the same, and shall be held to perform the same duties, and be subject to the same rules and regulations.

Approved, April 8, 1812.

An Act for the relief of the officers and soldiers who served in the late campaign on the Wabash.

Be it enacted, &c., That the officers, according to the rank assigned them by Governor Harrison, and which they held on the seventh day of November, one thousand eight hundred and eleven, the non-commissioned officers and soldiers of the volunteers and militia, and the legal representatives of those who were killed or died of their wounds, composing the army that served in the late campaign on the Wabash against the hostile Indians, shall receive the same compensation which is allowed by law to the militia of the United States when called into the actual service of the United States.

SEC. 2. *And be it further enacted*, That the officers, according to the rank which they held as aforesaid, the non-commissioned officers, and soldiers, of the volunteers or militia, who served in the said campaign, and who were killed or died of wounds received in said service, leaving a widow, or, if no widow, shall have left a child or children, under the age of sixteen years, such widow, or, if no widow, such child or children, shall be entitled to, and receive the half of the monthly pay to which the deceased was entitled at the time of his death, or receiving the wound of which he died, for and during the term of five years; and in case of the death or intermarriage of such widow, before the expiration of the term of five years, the half pay, for the remainder of the term, shall go to the child or children of such deceased officer or soldier, whilst under the age of sixteen years; and in like manner the allowance to the child or children of such deceased, where there is no widow, shall be paid no longer

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than while there is a child or children under the age aforesaid: *Provided*, That no greater sum shall be allowed in any case to the widow, or to the child or children, of any officer, than the half pay of a lieutenant colonel.

SEC. 3. *And be it further enacted*, That every officer, according to the rank which he held as aforesaid, non-commissioned officer, and private, of the volunteers and militia, who served in the said campaign, and who have been disabled by known wounds received in said service, shall be placed on the list of invalids of the United States, at such rate of pension as shall be directed by the President of the United States, upon satisfactory proof of such wound and disability being produced to the Secretary of War, agreeably to such rules as he may prescribe: *Provided*, That the rate of compensation for such wounds and disabilities shall never, for the highest disability, exceed half the monthly pay of such officer, at the time of being so wounded or disabled, and that the rate of compensation to a non-commissioned officer and private, shall never exceed five dollars per month; and all inferior disabilities shall entitle the person so disabled, to receive a sum in proportion to the highest disability; but no pension of a commissioned officer shall be calculated at a higher rate than the half pay of a lieutenant colonel.

SEC. 4. *And be it further enacted*, That any person or persons belonging to the said army, who may have had a horse or horses killed or lost during the late battle on the Wabash, shall be entitled to, and receive the value thereof: *Provided*, That the proof of the value of such horse or horses shall be by affidavit of the quartermaster of the corps to which the owner may have belonged, or of two other credible witnesses.

SEC. 5. *And be it further enacted*, That to the heirs or legal representatives of every person who was killed, and to every person who was wounded, in the said campaign, who were purchasers of public lands of the United States, and whose lands had not, before the seventh of November, one thousand eight hundred and eleven, been actually sold or reverted to the United States for the non-payment of part of the purchase money, a further time of three years shall be allowed, in addition to the time allowed by former laws, to complete their payments; which further time of three years shall commence from the respective times when their payments should have been completed according to former laws.

Approved, April 10, 1812.

An Act to authorize a detachment from the Militia of the United States.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to require of the Executives of the several States and Territories, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thou-

sand militia, officers included, to be apportioned by the President of the United States, from the latest militia returns in the Department of War; and, in cases where such returns have not been made, by such other data as he shall judge equitable.

SEC. 2. *And be it further enacted*, That the detachment of militia aforesaid, shall be officered out of the present militia officers, or others, at the option and discretion of the Constitutional authority in the respective States and Territories; the President of the United States apportioning the general officers among the respective States and Territories, as he may deem proper: and the commissioned officers of the militia, when called into actual service, shall be entitled to the same pay, rations, and emoluments, as the officers of the Army of the United States.

SEC. 3. *And be it further enacted*, That the detachment shall not be compelled to serve a longer time than six months after they arrive at the place of rendezvous; and during the time of service the non-commissioned officers, musicians, and privates, shall be entitled to the same pay and rations as is provided by law for the militia of the United States when called into actual service.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to call into actual service any part, or the whole, of said detachment, in all the exigencies provided by the Constitution; and the officers, non-commissioned officers, musicians, and privates, of the said detachment, shall be subject to the penalties of the act, entitled "An act for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for those purposes, passed the twenty-eighth day of February, one thousand seven hundred and ninety-five;" and if a part only of said detachment shall be called into actual service, they shall be taken from such part thereof as the President of the United States shall deem proper.

SEC. 5. *And be it further enacted*, That no non-commissioned officer, musician, or private belonging to the aforesaid detachment of militia, who shall be ordered into actual service by the President of the United States, shall be subject to corporal punishment by whipping, anything contained in any act to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That in lieu of whipping, as provided by several of the rules and articles of war, as now used and practised, stoppage of pay, confinement, and deprivation of part of the rations, shall be substituted, in such manner as is hereinafter provided.

SEC. 7. *And be it further enacted*, That any non-commissioned officer or private, belonging to the aforesaid detachment of militia, who shall, while in actual service, be convicted before any court martial of any offence, which, before the passing of this act, might or could have subjected such person to be whipped, shall, for the first offence, be put under such stoppages of pay as

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such court martial shall adjudge, not exceeding the one half of one month's pay for any one offence: but such offender may, moreover, at the discretion of such court martial, be confined under guard, on allowance of half rations, any length of time, not exceeding ten days for any one offence, or may, at the discretion of such court martial, be publicly drummed out of the Army.

SEC. 8. *And be it further enacted*, That the sum of one million of dollars be and the same is hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, towards defraying any expense incurred by virtue of the provisions of this act.

SEC. 9. *And be it further enacted*, That this act shall continue and be in force for two years from the passing thereof, and no longer.

Approved, April 10, 1812.

An Act to prohibit the exportation of specie, goods, wares, and merchandise, for a limited time.

Be it enacted, &c., That it shall not be lawful, during the continuance of the act, entitled "An act laying an embargo on all the ships and vessels in the ports and harbors of the United States, for a limited time," to export from the United States or the territories thereof, in any manner whatever, any specie, nor any goods, wares, or merchandise, of foreign or domestic growth or manufacture; and if any person shall, with intent to evade this law, export or attempt to export any specie, goods, wares, or merchandise, from the United States or the territories thereof, either by land or water, such specie, goods, wares, and merchandise, together with the vessel, boat, raft, cart, wagon, sleigh, or other carriage in which the same shall have been exported or attempted to be exported, shall, together with the tackle, apparel, horses, mules, and oxen, be forfeited, and the owner or owners of such specie, goods, wares, or merchandise, and every other person knowingly concerned in such prohibited exportation, on conviction thereof, shall each, respectively, forfeit and pay a sum not exceeding ten thousand dollars for every such offence: *Provided however*, That nothing in this section contained shall be construed to prevent the departure of vessels, which, according to the act last above mentioned, are or may be permitted to depart in the manner and under the restrictions provided by the said act.

SEC. 2. *And be it further enacted*, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ any part of the land or naval forces, or militia of the United States, or of the territories thereof, as may be judged necessary, for the purpose of preventing the illegal departure of any ship or vessel, or the illegal exportation of any specie, or of any goods, wares, or merchandise, contrary to the provisions of this, or of the last above mentioned act, and for the purpose of detaining, taking possession of, and keeping in custody, any such ship or vessel, specie, goods, wares, or merchandise.

SEC. 3. *And be it further enacted*, That all pen-

alties and forfeitures, incurred by virtue of this act, shall and may be prosecuted, sued for, recovered and distributed, and may be mitigated and remitted in the manner provided by the act, entitled "An act laying an embargo on all the ships and vessels in the ports and harbors of the United States for a limited time," and also, that the penalties and forfeitures incurred by virtue of this act may be recovered subsequent to the expiration thereof, in the same manner as if this act had continued in full force and virtue.

Approved, April 14, 1812.

An Act to enlarge the limits of the State of Louisiana.

Be it enacted, &c., That, in case the Legislature of the State of Louisiana shall consent thereto, all that tract of country comprehended within the following bounds, to wit: Beginning at the junction of the Iberville with the river Mississippi; thence, along the middle of the Iberville, the river Amite, and of the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl river; thence, up the eastern branch of Pearl river to the thirty-first degree of north latitude; thence, along the said degree of latitude to the river Mississippi; thence, down the said river to the place of beginning, shall become and form a part of the State of Louisiana, and be subject to the constitution and laws thereof, in the same manner, and for all intents and purposes, as if it had been included within the original boundaries of the said State.

SEC. 2. *And be it further enacted*, That it shall be incumbent upon the Legislature of the State of Louisiana, in case they consent to the incorporation of the territory aforesaid within their limits, at their first session, to make provision by law for the representation of the said territory in the Legislature of the State, upon the principles of the Constitution, and for securing to the people of the said territory, equal rights, privileges, benefits, and advantages, with those enjoyed by the people of the other parts of the State; which law shall be liable to revision, modification, and amendment by Congress, and also in the manner provided for the amendment of the State constitution, but shall not be liable to change or amendment by the Legislature of the State.

Approved, April 14, 1812.

An Act giving further time for registering claims to land in the eastern district of the Territory of Orleans.

Be it enacted, &c., That every person or persons claiming lands in the eastern district of the Territory of Orleans, who are actual settlers on the land which they claim, and whose claims have not been heretofore filed with the register of the land office for the said district, shall be allowed until the first day of November next to deliver notices in writing, and the written evidences of their claims, to the register of the land office at New Orleans; and the notices and evidences so delivered, within the time limited by

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this act, shall be recorded in the same manner, and on payment of the same fees, as if the same had been delivered before the first day of July, one thousand eight hundred and eight; but the rights of such persons as shall neglect so doing within the time limited by this act, shall, so far as they are derived from, or founded on, any act of Congress, ever after be barred and become void, and the evidences of their claims never after admitted as evidence in any court of the United States, against any grant derived from the United States.

SEC. 2. *And be it further enacted*, That the register and receiver of public moneys of the said land office at New Orleans, shall have the same powers, and perform the same duties, in relation to the claims thus filed before the first day of November next, as if notice of the same had been given before the first day of July, one thousand eight hundred and eight, except that their decision shall be subject to the revision of Congress. And it shall be the duty of the said register and receiver to make, to the Secretary of the Treasury, a report of all the claims thus filed with the register of the land office, together with the substance of the evidence in support thereof, with their opinion and such remarks thereon as they may think proper; which report, together with a list of the claims which, in the opinion of the register and receiver, ought to be confirmed, shall be laid by the Secretary of the Treasury before Congress, at their next session, for their determination thereon. The said register and receiver shall have power to appoint a clerk, whose duties shall be the same, in relation to the claims filed as aforesaid, as was required of the clerk to the board of commissioners for adjusting claims to lands in the said district; and the said register, receiver, and clerk, shall each be allowed fifty cents for each claim filed according to this act, and on which a decision shall be made, whether such decision be in favor of, or against the claim; which allowance of fifty cents shall be in full compensation for their services under this act.

Approved, April 14, 1812.

An Act for the organization of a Corps of Artificers.

Be it enacted, &c., That there shall be attached to the Quartermaster General's department, and subject to the order of the officers thereof, a corps of artificers, to consist of one superintendent, to be appointed by the President of the United States, four assistants, two master masons, two master carpenters, two master blacksmiths, two master boat builders, two master armorers, two master saddle and harness makers, twenty house carpenters, five ship carpenters, twenty blacksmiths, sixteen boat builders, sixteen armorers, twelve saddle and harness makers, and twenty-four laborers, to be selected from the privates of the army, when authorized thereto by the commanding general, or engaged from among the citizens by the superintendent.

SEC. 2. *And be it further enacted*, That the pay of the superintendent of artificers shall be

forty-five dollars per month, three rations per day, and forage for one horse; that the pay of the four assistants be, each, thirty dollars per month, and two rations per day; that the pay of the twelve master workmen be, each, thirty dollars per month, and one ration and one half of a ration per day; that the pay of the other workmen be, each, sixteen dollars per month, and one ration and one half of a ration per day.

SEC. 3. *And be it further enacted*, That it shall be the duty of the superintendent of artificers to render a correct report, once each month, of the corps, to the Quartermaster General, and, on oath, to make out the pay roll thereof; which pay roll shall be examined by the Quartermaster General, or, in his absence, by one of the deputy quartermasters, and by him be countersigned; and faithfully, and without delay, to execute all such orders as he may receive from the Secretary at War, any officer of the quartermaster's department, or from the officer commanding in the field or garrison to which his corps or any part thereof may be attached.

SEC. 4. *And be it further enacted*, That this corps shall be engaged for and during the term of three years, unless sooner discharged by the President of the United States.

SEC. 5. *And be it further enacted*, That, for defraying the expense that may be incurred in the execution of this act, the sum of thirty thousand dollars, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 23, 1812.

An Act to authorize the Secretary for the Department of War to exchange lands with the Ursuline Nuns, of the City of New Orleans.

Be it enacted, &c., That the Secretary for the Department of War be, and he is hereby, authorized and empowered to exchange the lot of ground, situate in the city of New Orleans, on which the military hospital of the United States stands, with the Ursuline Nuns of said city, whose convent adjoins or is near the same, for such other lot or lots of ground, in said city of New Orleans, or its vicinity, owned by the said Nuns, as, in the opinion of said Secretary, shall be conveniently situated for a military hospital, and of equal value with said lot, on which the said hospital now stands, including the value of said hospital.

SEC. 2. *And be it further enacted*, That, in case of such exchange, the Secretary for the Department of War is hereby authorized and empowered to make, execute, and deliver, in behalf of the United States, to the said Ursuline Nuns, or to such person or persons as they may designate, a deed, or other instrument in writing, therein, and thereby conveying to them all the right and title of the United States, in and to the said lot of ground aforesaid; reserving, however, to the United States, the use of said hospital, for such time as he shall judge necessary; and the Secretary for the Department of War is hereby also authorized to take and receive from the said Ur-

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suline Nuns, or from such person or persons as may be authorized in their behalf for that purpose, a deed or deeds, or other instrument in writing, conveying to the United States a good and sufficient title to the lot or lots of ground which he may agree to take in exchange: and which deed or deeds, or other instrument in writing, shall contain the necessary covenants to secure to the United States in case of any failure of title thereto.

Approved, April 23, 1812.

An Act to authorize the granting of patents for land, according to the surveys that have been made; and to grant donation rights to certain claimants of land in the District of Detroit; and for other purposes.

Be it enacted, &c., That patents shall be granted to the persons whose claims to land have been confirmed in the district of Detroit, in conformity to the surveys which have been made under the direction of the Surveyor General, and the general plat of which has been returned to the Secretary of the Treasury, notwithstanding the surveys shall not, in every respect, correspond with the description of the tracts as confirmed by the commissioners for adjusting land claims in the said district: *Provided,* That the information of the commissioners and certificate of the register shall, in every other respect, be conformable to law.

SEC. 2. *And be it further enacted,* That every person, whose claim has been confirmed by the commissioners aforesaid to a tract of land bordering on the river Detroit, and whose tract, as confirmed, does not extend in depth eighty arpens, French measure, shall be entitled to a donation of any vacant tract of land adjacent to and back of the land confirmed to him as aforesaid, *Provided,* That such donation shall not exceed forty arpens, French measure, in depth, nor in quantity of land that contained in the tract already confirmed to him, nor shall in any case the tract confirmed as aforesaid, and that allowed as a donation, together, exceed eighty arpens, French measure, in depth; and in all cases where, by reason of bends in the said river, and of adjacent prior claims, each claimant cannot obtain a tract equal in quantity to the tract already confirmed to him, the vacant land applicable to the object shall be divided between the claimants, in such manner as shall appear to the commissioners for adjusting the claim most equitable. And every person claiming a donation in virtue of this section, shall, on or before the first day of December next, deliver to the register of the land office at Detroit, a notice, in writing, of the situation and extent of his claim, which he shall file in his office on receiving twenty-five cents from the party or parties for each claim; and if such person shall neglect to deliver such notice within the time limited, his right to a donation, under this section, shall become void. And the commissioners for adjusting claims to land in the said district, shall, as soon as may be after the first of December next, proceed to examine and decide,

according to the provision of this section, on the claims filed as aforesaid; and when it shall appear to the said commissioners that the claimant is entitled to a donation of land, they shall give a certificate stating the circumstances of the case, and that the claimant is entitled to receive a patent for such a tract of land by virtue of this section, which tract shall be surveyed in conformity with the decision of the commissioners, at the expense of the party, under the direction of the Surveyor General, by such of his assistants residing in the said district as the said Surveyor General shall appoint for that purpose. The expense of surveying shall be the same, and the plats of surveys and transcript of the decisions of the commissioners in favor of claimants shall be made and transmitted to the Secretary of the Treasury in the same manner; and the certificates granted by the commissioners shall be entered with the register of the land office, and certificates of the register be granted to the party or parties on payment of the same fees, and patents granted, in every respect, in the same manner as is directed by the third section of an act, entitled "An act regulating the grants of land in the Territory of Michigan," passed the third day of March, one thousand eight hundred and seven.

SEC. 3. *And be it further enacted,* That the heirs of Joseph Harrison, late of Detroit, deceased, be permitted to enter, with the register of the land office for the district of Detroit, their claim to any tract or tracts of land in the said district; and such entry shall have the same effect, and the commissioners shall have the same powers, and act thereon in the same manner, as if the entry had been made before the first day of January, one thousand eight hundred and nine; and in case of a decision in favor of their claim or claims, a patent or patents shall be granted for the lands so claimed and confirmed to them, any law to the contrary notwithstanding.

Approved, April 23, 1812.

An Act making provision for certain persons claiming lands under the several acts for the relief of the Refugees from the British Provinces of Canada and Nova Scotia.

Be it enacted, &c., That the following persons claiming lands under the act, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British provinces of Canada and Nova Scotia,'" passed on the sixteenth day of March, one thousand eight hundred and four, shall, respectively, be entitled to the following quantities of land, that is to say: Charlotte Hazen, widow of Moses Hazen; Chloe Shannon, wife of James Noble Shannon, and relict of Obadiah Ayer, deceased; the heirs of Elijah Ayer, and the heirs of Israel Ruland, respectively, nine hundred and sixty acres; Elijah Ayer, jun., and the heirs of Anthony Burk, respectively, three hundred and twenty acres: And that the following persons, claiming lands under the act, entitled "An act further to provide for the refugees from the Brit-

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ish provinces of Canada and Nova Scotia, and for other purposes," passed on the twenty-fourth day of February, one thousand eight hundred and ten, shall, respectively, be entitled to the following quantities of land, that is to say: The heirs of James Boyd, two thousand two hundred and forty acres; the heirs of Nathaniel Reynolds, the heirs of Edward Antill and Joshua Sprague, respectively, nine hundred and sixty acres: Robert Sharp, John Fulton and John Morrison, each six hundred and forty acres; James Sprague, David Dickey, John Taylor, and the heirs of Gilbert Seamans, deceased, respectively, three hundred and twenty acres; which several tracts of land to be located within the boundaries of the fractional townships reserved and set apart for the purpose of satisfying the claims of the refugees from Canada and Nova Scotia; and the locations shall be made, and patents granted, in the manner and on the conditions prescribed by former laws, except as to the time for making the locations; which locations shall be made on the day or days that the Secretary of the Treasury shall judge most convenient for the claimants, and shall designate for the purpose.

Approved, April 23, 1812.

An Act giving further time to the purchasers of public lands, northwest of the river Ohio, to complete their payments.

Be it enacted, &c., That every person, who, prior to the first day of April, one thousand eight hundred and eight, had purchased any tract or tracts of land of the United States, not exceeding, in the whole, six hundred and forty acres; at any of the land offices established for the disposal of the public lands northwest of the river Ohio, and whose lands have not already been actually sold or reverted to the United States for non-payment of part of the purchase money, shall be allowed the further term of three years, from the first day of January, one thousand eight hundred and thirteen, for the payment of the residue of the principal and interest due on account of such purchase, to be paid in four equal annual payments, the first whereof to be on the first day of January, one thousand eight hundred and thirteen: and in case of failure in paying any of the said annual payments, at the time when the same shall become due, the tract of land shall be forthwith advertised and offered for sale, in the manner and on the terms and conditions heretofore prescribed for the sale of lands purchased of the United States and not paid for within the limited time.

Approved, April 23, 1812.

An Act to continue in force, for a limited time, an act, entitled "An act continuing for a limited time the salaries of the officers of Government therein mentioned."

Be it enacted, &c., That an act passed on the twentieth day of February, one thousand eight hundred and four, entitled "An act continuing for a limited time the salaries of the officers of

Government therein mentioned," shall be and continue in force for the term of three years, and to the end of the next session of Congress thereafter, and no longer.

SEC. 2. *And be it further enacted,* That, for paying the salaries of the Secretaries of State, Treasury, War, and Navy, the Comptroller, Auditor, and Register, of the Treasury, the Treasurer of the United States, the Accountants of the War and Navy Departments, the Postmaster General, and the first Assistant Postmaster General, in addition to the sums already appropriated by the "act making appropriations for the support of Government for the year one thousand eight hundred and twelve," there be appropriated the further sum of seven thousand seven hundred and fifty-two dollars and fifty cents, to be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved, April 24, 1812.

An Act for ascertaining the titles and claims to lands in that part of the Louisiana Territory which lies east of the river Mississippi and island of New Orleans.

Be it enacted, &c., That, for the purpose of ascertaining the titles and claims to lands in that tract of country which lies south of the Mississippi Territory, east of the river Mississippi and island of New Orleans, and west of the river Perdido, and a line drawn with the general course thereof to the southern boundary of the said Mississippi Territory, the lands within the said limits shall be laid off into two land districts, between which Pearl river shall be the boundary; and for each of which districts a commissioner for land claims shall be appointed by the President of the United States, with the advice and consent of the Senate. The said commissioners shall, respectively, have power to appoint a clerk, who shall be a person capable of translating the French and Spanish languages, and who shall, in addition to the other duties required of him by this act, perform the duties of a translator, when required by the commissioner. And the said commissioners and clerk shall, before entering on the duties of their appointments, respectively, take an oath or affirmation, truly and faithfully to execute the duties imposed on them by this act.

SEC. 2. *And be it further enacted,* That, for the more convenient ascertainment of the titles and claims to lands as aforesaid, it shall be the duty of each of the said commissioners, respectively, and their clerks, to attend in each of the several parishes in his district, at such time and place therein as he shall appoint, for the purpose of receiving notices and evidences of titles and claims to lands within the same; and when the commissioners shall have appointed the time and place for his attendance in any parish, he shall cause public notice thereof to be given to the inhabitants of the same, for at least twenty days previous to the time of his commencing the business of his appointment therein.

SEC. 3. *And be it further enacted,* That each commissioner, after he shall have attended for a

reasonable and sufficient length of time in each parish of his district, for the claimants of lands within the same to have delivered the notices and evidences of their claims, shall establish his office at such place in his district as he shall judge most convenient, and of which he shall give public notice. And every person claiming lands within his district, who shall have neglected, or by any circumstance have been prevented, from delivering a notice and evidence of his claims, during the time the commissioner attended in the parish in which the lands he may claim are situate, shall be at liberty, at any time before the end of six months from and after such office shall have been established, to deliver a notice and the evidence of his claims; and it shall have the same effect as if delivered in the parish wherein the lands claimed are situated.

SEC. 4. *And be it further enacted*, That every person claiming lands in the tract of country aforesaid, by virtue of any grant, order of survey, or other evidence of claim whatsoever, derived from the French, British, or Spanish Governments, shall deliver to the commissioner for land claims, when attending for the purpose, in the parish in which the lands claimed may lie, a notice in writing, stating the nature and extent of his claims, together with a plat (in case a survey shall have been made) of the tract or tracts claimed; and shall deliver to the commissioner, when attending as aforesaid, for the purpose of being recorded, every grant, order of survey, deed, conveyance, or other written evidence of his claim; and the same shall be recorded by the clerk in books to be kept for that purpose, on his receiving from the party or parties at the rate of twelve and a half cents for every hundred words contained in such written evidence of their claim: *Provided, however*, That where lands are claimed by virtue of a complete French, British, or Spanish grant, it shall not be necessary for the claimant to have any other evidence of his claim entered at large on the record, except the original grant or patent, together with the order of survey, and the plat; all the other conveyances or deeds may be abbreviated in the entry, but the chain of title and the date of every transfer shall appear on the record. And if such person shall neglect to deliver such notice in writing of his claim, together with the plat (in case the lands claimed shall have been surveyed) as aforesaid, or cause to be recorded such written evidence of the same within the time and times as aforesaid, his claim shall never after be recognised or confirmed by the United States; nor shall any grant, order of survey, deed, conveyance, or other written evidence, which shall not be recorded as above directed, ever after be considered or admitted as evidence in any court of the United States, against any grant which may hereafter be derived from the United States.

SEC. 5. *And be it further enacted*, That the said commissioners shall have power, in their respective districts, to inquire into the justice and validity of the claims filed with them as aforesaid. It shall be their duty to ascertain, in every

case, whether the lands claimed have been inhabited and cultivated; at what time such inhabitation and cultivation commenced; when surveyed, and by whom, and what authority; and into every other matter respecting the claims, which may affect the justice and validity thereof; and, for that purpose, shall have power to administer oaths, and to compel the attendance of and examine witnesses, and such other testimony as may be adduced; to have access to all records, of a public nature, relative to the granting, sale, transfer, or titles, of lands within their respective districts, and to take transcripts from such record or records, or any part thereof; and the evidence thus adduced and obtained, shall, by the clerk, be entered in a book to be kept for that purpose.

SEC. 6. *And be it further enacted*, That the powers vested by law in the surveyor of the lands of the United States south of the State of Tennessee, shall extend over all the public lands in the said tract of country.

SEC. 7. *And be it further enacted*, That the said commissioners shall, respectively, under such instructions as the Secretary of the Treasury may, with the approbation of the President of the United States, transmit to them in relation thereto, prepare, and cause to be prepared, abstracts from the records of the claims filed as aforesaid, in which the claims shall be arranged into classes, according to their respective merits, and other circumstances by which they may be diversified. The abstracts shall contain the substance of the evidence adduced in support of or obtained respecting the claims, and shall contain such other information and remarks as may be necessary to a proper decision thereon; which abstracts, the commissioners shall, respectively, as soon as may be, report to the Secretary of the Treasury, and shall by him be laid before Congress, at the next session thereafter, for their determination.

SEC. 8. *And be it further enacted*, That the said commissioners be and they are hereby authorized and required to collect and report to Congress, at their next session, a list of all the actual settlers on land in said districts, respectively, who have no claims to land derived either from the French, British, or Spanish Governments, and the time at which such settlements were made.

SEC. 9. *And be it further enacted*, That each of the said commissioners shall be allowed as compensation for his services in relation to the said claims, at the rate of fifteen hundred dollars a year; and each of the clerks, at the rate of one thousand dollars a year: *Provided*, That not more than eighteen months' compensation be thus allowed to the Commissioner and clerk for the district east of Pearl river; nor more than two years' compensation be allowed to the Commissioner and clerk for the district west of Pearl river; and the Commissioner for the Eastern district, on making his report to the Secretary of the Treasury, as aforesaid, shall be entitled to receive, in addition, seven hundred and fifty dollars, and his clerk five hundred dollars; and the Commissioner for the Western district, on making his

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report, aforesaid, shall receive one thousand dollars, and his clerk seven hundred and fifty dollars; and the said allowances shall be in full for the services under this act.

Approved, April 25, 1812.

An Act for the establishment of a General Land Office in the Department of the Treasury.

Be it enacted, &c., That there shall be established in the Department of the Treasury an office, to be denominated the General Land Office; the chief officer of which shall be called the Commissioner of the General Land Office, whose duty it shall be, under the direction of the head of the department, to superintend, execute, and perform, all such acts and things, touching or respecting the public lands of the United States, and other lands patented or granted by the United States, as have heretofore been directed by law to be done or performed in the office of the Secretary of State, of the Secretary and Register of the Treasury, and of the Secretary of War, or which shall hereafter by law be assigned to the said office.

Sec. 2. And be it further enacted, That there shall be in the said office, an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called the Chief Clerk of the General Land Office, who, in all cases, when the said principal office shall become vacant, during such vacancy, shall have the charge and custody of the seal, and of all records, books, and papers, belonging to the said office.

Sec. 3. And be it further enacted, That the principal officer, and every other person to be appointed and employed in the said office, shall, before he enters on the duties of his office or appointment, take an oath or affirmation, truly and faithfully to execute the trust committed to him.

Sec. 4. And be it further enacted, That the said Commissioner shall cause a seal of office to be made and provided for the said office, with such device as the President of the United States shall approve; and copies of any records, books, or papers, belonging to the said office, under the signature of the said Commissioner, or, when the office shall be vacant, under the signature of the chief clerk; and the said seal shall be competent evidence in all cases in which the original records, books, or papers, could be evidence.

Sec. 5. And be it further enacted, That the said Commissioner shall, forthwith, after his appointment, be entitled to the custody, and shall take charge of the said seal, and also of all records, books, and papers, remaining in the offices of the Secretary of State, of the Secretary and Register of the Treasury, and of the Secretary of War, touching or concerning the public lands of the United States; and the said records, books, and papers, shall become and be deemed the records, books, and papers, of the said office.

Sec. 6. And be it further enacted, That the said Commissioner shall, when required by the President of the United States, or either House of

Congress, make a plat of any land surveyed under the authority of the United States, and give such information respecting the public lands, and concerning the business of his office, as shall be directed.

SEC. 7. And be it further enacted, That, in all cases in which land has heretofore or shall hereafter be given by the United States for military services, warrants shall be granted to the parties entitled to such land by the Secretary of War; and such warrants shall be recorded in the said Land Office, in books to be kept for the purpose, and shall be located as is, or may be provided by law; and patents shall afterwards be issued accordingly.

SEC. 8. And be it further enacted, That all patents issuing from the said office, shall be issued in the name of the United States, and under the seal of the said office, and be signed by the President of the United States, and countersigned by the Commissioner of the said office; and shall be recorded in the said office, in books to be kept for the purpose.

SEC. 9. And be it further enacted, That all returns relative to the public lands, heretofore directed to be made to the Secretary of the Treasury, shall hereafter be made to the said Commissioner, who shall have power to audit and settle all public accounts relative to the public lands: *Provided,* That it shall be the duty of the said Commissioner, upon the settlement of any such account, to certify the balance, and transmit the account, with the vouchers and certificate to the Comptroller of the Treasury, for his examination and decision thereon.

SEC. 10. And be it further enacted, That no person appointed to an office instituted by this act, or employed in any such office, shall directly or indirectly be concerned in the purchase of any right, title, or interest, in any public land, either in his own right, or in trust for any other person, or in the name or right of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting the business of the office. And any person offending in the premises against the prohibitions of this act, shall forfeit and pay one hundred dollars; and, upon conviction, shall be removed from office.

SEC. 11. And be it further enacted, That the Commissioner of the said Land Office shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and shall receive an annual salary, equal to the salary of the Auditor of the Treasury, payable quarterly; and the sum of two thousand two hundred and fifty dollars, is hereby appropriated for the said compensation, during the year one thousand eight hundred and twelve, to be paid out of any moneys in the Treasury not otherwise appropriated; and the said Commissioner shall have the same privilege with the Comptroller of the Treasury, of sending and receiving letters and packages, and also final certificates and patents for land, free of postage.

SEC. 12. And be it further enacted, That the

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Commissioner of the Land Office shall be authorized to employ a sufficient number of clerks: *Provided*, That their annual compensation shall not exceed, in the whole, seven thousand dollars; and the said compensation shall be paid in the following manner, during the year one thousand eight hundred eighty and twelve, that is to say; three thousand eight hundred dollars shall be paid out of the moneys appropriated for the compensation of clerks, during said year, in the office of the Secretary of the Treasury; one thousand four hundred dollars shall be paid out of the moneys appropriated for the compensation of clerks, during said year, in the office of the Secretary of State; and three hundred dollars shall be paid out of the moneys appropriated for the compensation of clerks, during said year, in the office of the Secretary of War.

Approved, April 25, 1812.

An Act to revive and continue in force "An act to provide for persons who were disabled by known wounds received in the Revolutionary war, and for other purposes."

Be it enacted, &c., That the act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," passed on the tenth of April, one thousand eight hundred and six, shall be and the same is hereby revived and continued in force for and during the space of six years from the passage of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

SEC. 2. *And be it further enacted*, That the agents for the payment of invalid pensioners of the United States shall, in future, be required to give bond, with two or more sureties, to be approved by the Secretary of the Department of War, in a sum not exceeding five thousand dollars, for the faithful discharge of the duties confided to them, respectively.

Approved, April 25, 1812.

An Act authorizing the departure of ships and vessels from the ports and harbors of the United States, in certain cases.

Be it enacted, &c., That any ship or vessel which heretofore has been, or which hereafter may be, chartered and laden on account of the Government of the United States, shall be permitted to depart from the ports and harbors of the United States, and the Territories thereof, anything in any former law to the contrary notwithstanding.

Approved, April 27, 1812.

An Act authorizing the appointment of an additional Judge of the District Court, for the District of New York.

Be it enacted, &c., That the district court, in the New York district, shall consist of two judges, to wit: of the present judge of said district, so long as he shall continue in office, and such other district judge or judges, as may, from time to

time, be appointed, who shall reside in said district, and severally exercise like powers, as may be exercised by the present judge of said district, and receive the same compensation whereto he is entitled.

SEC. 2. *And be it further enacted*, That the senior judge of the district, when present, shall preside in the said district court, and whenever the judges shall differ in opinion in any cause, the order of judgment of court, in every such case, shall be made and rendered in conformity with the opinion of the presiding judge. And said court may be held, and the business thereof proceeded with, by one judge in the absence of the other. And the senior judge of the district, for the time being, is hereby designated, and is to be deemed the district judge, who, together with one of the justices of the Supreme Court, is to compose the circuit court of the United States in said district; but in the absence of said senior judge from the said court, his place may be supplied by the other judge of the district.

SEC. 3. *And be it further enacted*, That there shall be held annually four additional sessions of the district court for the district of New York; to wit: at Utica, on the first Tuesdays of April and October; at Geneva, on the third Tuesday of September; and at Salem, on the third Tuesday of October. A clerk shall be appointed by the district judges of said district, who shall reside at Utica, and attend said court at the places aforesaid, and do all the duties of said office of clerk, which may accrue at or from the sessions of the court at the said places, both in and out of court, and be allowed the same fees and compensation as is allowed by law to clerks of the district courts. The said judges may allot themselves as they shall think fit, for the purpose of their holding, separately, the several stated and special courts to be held, by virtue of this or any other act, for the district of New York.

Approved April 29, 1812.

An Act making further provision for the Corps of Engineers.

Be it enacted, &c., That there be added to the corps of engineers, two captains, two lieutenants, two second lieutenants, with the usual pay and emoluments, according to their grades respectively, and one paymaster, to be taken from the subalterns of engineers, with the pay and emoluments of a regimental paymaster; and that there be attached to the said corps, either from the troops now in service, or by new enlistments, as the President of the United States may direct, four sergeants, four corporals, one teacher of music, four musicians, nineteen artificers, and sixty-two men, which non-commissioned officers musicians, artificers, and men, together with the artificers and men already belonging to the corps of engineers, shall be formed into a company, to be styled a company of bombardiers, sappers, and miners, and be officered from the corps of engineers, according as the commanding officer of that corps may, with the approbation of

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the President of the United States, direct; and the said non-commissioned officers, musicians, artificers, and men, shall be allowed the same pay and emoluments as are allowed to the non-commissioned officers, musicians, artificers, and men, in the regiment of artillerists.

SEC. 2. *And be it further enacted*, That the military academy shall consist of the corps of engineers, and the following professors, in addition to the teachers of the French language and drawing already provided, viz: one professor of natural and experimental philosophy, with the pay and emoluments of lieutenant colonel, if not an officer of the corps, and, if taken from the corps, then so much in addition to his pay and emoluments as shall equal those of a lieutenant colonel; one professor of mathematics, with the pay and emoluments of a major, if not an officer of the corps, and if taken from the corps, then so much in addition to his pay and emoluments, as shall equal those of a major; one professor of the art of engineering in all its branches, with the pay and emoluments of a major, if not an officer of the corps, and, if taken from the corps, then so much in addition to his pay and emoluments as shall equal those of a major; each of the foregoing professors to have an assistant professor, which assistant professor shall be taken from the most prominent characters of the officers or cadets, and receive the pay and emoluments of captains, and no other pay or emoluments while performing these duties: *Provided*, That nothing herein contained shall entitle the academical staff, as such, to any command in the army separate from the academy.

SEC. 3. *And be it further enacted*, That the cadets heretofore appointed in the service of the United States, whether of artillery, cavalry, riflemen, or infantry, or that may in future be appointed as hereinafter provided, shall at no time exceed two hundred and fifty: that they may be attached at the discretion of the President of the United States, as students to the military academy, and be subject to the established regulations thereof; that they shall be arranged into companies of non-commissioned officers and privates, according to the directions of the commandant of engineers, and be officered from the said corps, for the purposes of military instruction; that there shall be added to each company of cadets four musicians; and the said corps shall be trained and taught all the duties of a private, non-commissioned officer, and officer; be encamped at least three months of each year, and taught all the duties incident to a regular camp; that the candidates for cadets be not under the age of fourteen, nor above the age of twenty-one years; that each cadet, previously to his appointment by the President of the United States, shall be well versed in reading, writing, and arithmetic, and that he shall sign articles, with the consent of his parent or guardian, by which he shall engage to serve five years, unless sooner discharged; and all such cadets shall be entitled to and receive the pay and emoluments now allowed by law to cadets in the corps of engineers.

SEC. 4. *And be it further enacted*, That when any cadet shall receive a regular degree from an academical staff, after going through all the classes, he shall be considered as among the candidates for a commission in any corps, according to the duties he may be judged competent to perform; and in case there shall not at the time be a vacancy in such corps, he may be attached to it at the discretion of the President of the United States, by brevet of the lowest grade, as a supernumerary officer, with the usual pay and emoluments of such grade, until a vacancy shall happen: *Provided*, That there shall not be more than one supplementary officer to any one company at the same time.

SEC. 5. *And be it further enacted*, That the sum of twenty-five thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for erecting buildings, and for providing an apparatus, a library, and all necessary implements, and for such contingent expenses as may be necessary and proper, in the judgment of the President of the United States, for such an institution.

SEC. 6. *And be it further enacted*, That so much of the twenty-sixth section of the act entitled "An act fixing the Military Peace Establishment," passed the sixteenth day of March, one thousand eight hundred and two, as confines the selection of the commander of the corps of engineers to the said corps, be, and the same is hereby, repealed.

Approved April 29, 1812.

An Act granting to the Governor of the State of Louisiana for the time being, and his successors in office, a lot of ground, and the buildings thereon, in the city of New Orleans.

Be it enacted, &c., That all the right and claim of the United States to the use, possession, and occupancy, of a space of three hundred and thirty-six by two hundred and twenty feet of a lot of ground, in the city of New Orleans, bounded by Chartres and Levee streets, and by Thoulouse street and the lot of the widow Castillon, together with the house on the above described lot, known by the name of the Government House, and the buildings thereon, be, and the same are hereby, vested in, and conveyed to the Governor of the State of Louisiana for the time being, and his successors in the same office, for the sole use and benefit of the said State of Louisiana forever; *Provided, however*, That this act shall not affect the claims of any individual or individuals, if any such there be.

Approved April 29, 1812.

An Act further to amend the Charter of the City of Washington.

Be it enacted, &c., That, from and after the first Monday of June next, the corporation of the City of Washington shall be composed of a mayor, a board of aldermen, and a board of common council, to be elected by ballot, as hereinafter directed. The board of aldermen shall consist of eight

members, to be elected for two years, two to be residents of and chosen from each ward by the qualified voters resident therein; and the board of common council shall consist of twelve members, to be elected for one year, three to be residents of and chosen from each ward in manner aforesaid: and each board shall meet at the council chamber on the second Monday in June next, (for the despatch of business,) at ten o'clock in the morning, and on the same day and at the same hour annually thereafter. A majority of each board shall be necessary to form a quorum to do business, but a less number may adjourn from day to day. The board of aldermen, immediately after they shall have assembled in consequence of the first election, shall divide themselves by lot into two classes; the seats of the first class shall be vacated at the expiration of one year, and the seats of the second class shall be vacated at the expiration of two years, so that one-half may be chosen every year. Each board shall appoint its own president from among its own members, who shall preside during the sessions of the board, and shall have a casting vote on all questions where there is an equal division: *Provided*, Such equality shall not have been occasioned by his previous vote.

SEC. 2. *And be it further enacted*, That no person shall be eligible to a seat in the board of aldermen, or board of common council, unless he shall be more than twenty-five years of age, a free white male citizen of the United States, and shall have been a resident of the City of Washington one whole year next preceding the day of election, and shall, at the time of his election, be a resident of the ward for which he shall be elected, and possessed of a freehold estate in the said City of Washington, and shall have been assessed two months preceding the day of election. And every free white male citizen of lawful age, who shall have resided in the City of Washington for the space of one year next preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and who shall have been assessed on the books of the corporation not less than two months prior to the day of election, shall be qualified to vote for members to serve in the said board of aldermen and board of common council, and no other person whatever shall exercise the right of suffrage at such election.

SEC. 3. *And be it further enacted*, That the present mayor of the City of Washington shall be, and continue such until the second Monday in June next, on which day, and on the second Monday in June annually thereafter, the mayor of the said city shall be elected by ballot of the board of aldermen and board of common council in joint meeting, and a majority of the votes of all the members of both boards shall be necessary to a choice; and if there should be an equality of votes between two persons, after the third ballot, the two boards shall determine the choice by lot. He shall, before he enters upon the duties of his office, take an oath or affirmation, in the presence of both boards, "lawfully to execute the duties of his office to the best of his skill and judgment,

without favor or partiality." He shall, *ex officio*, have and exercise all the powers, authority, and jurisdiction of a justice of the peace for the county of Washington, within the said county. He shall nominate, and, with the consent of a majority of the members of the board of aldermen, appoint to all offices under the corporation, (except the commissioners of election,) and any such officer shall be removed from office on the concurrent remonstrance of a majority of the two boards. He shall see that the laws of the corporation be duly executed, and shall report the negligence or misconduct of any officer to the two boards. He shall appoint proper persons to fill up all vacancies during the recess of the board of aldermen, to hold such appointment until the end of the then ensuing session. He shall have power to convene the two boards, when in his opinion the good of the community may require it; and he shall lay before them from time to time, in writing, such alterations in the laws of the corporation, as he shall deem necessary or proper, and shall receive for his services annually, a just and reasonable compensation, to be allowed and fixed by the two boards, which shall neither be increased nor diminished during the period for which he shall have been elected. Any person shall be eligible to the office of mayor, who is a free white male citizen of the United States, who shall have attained to the age of thirty years, and who shall be the *bona fide* owner of a freehold estate in the said city, and shall have been resident in the said city two years immediately preceding his election; and no other person shall be eligible to the said office. In case of the refusal of any person to accept the office of mayor upon his election thereto, or of his death, resignation, inability, or removal from the city, the said two boards shall elect another in his place to serve the remainder of the year.

SEC. 4. *And be it further enacted*, That the first election for members of the board of aldermen, and board of common council, shall be held on the first Monday in June next, and on the first Monday in June annually thereafter: the first election to be held by three commissioners, to be appointed in each ward by the mayor of the city, and at such place in each ward as he may direct: and all subsequent elections shall be held by a like number of commissioners, to be appointed in each ward by the two boards in joint meeting, which several appointments, except the first, shall be at least ten days previous to the day of each election. And it shall be the duty of the mayor, for the first election, and of the commissioners for all subsequent elections, to give at least five days' previous public notice of the place in each ward where such elections are to be held. The said commissioners shall, before they receive any ballot, severally take the following oath or affirmation, to be administered by the mayor of the city or any justice of the peace for the county of Washington: "I, A B, do solemnly swear, or affirm, (as the case may be,) that I will truly and faithfully receive and return the votes of such persons as are by law entitled to vote for mem-

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bers of the board of aldermen and board of common council in ward, No. —, according to the best of my judgment and understanding; and that I will not, knowingly, receive or return the vote of any person who is not legally entitled to the same: so help me God." The polls shall be opened at ten o'clock in the morning, and be closed at seven o'clock in the evening of the same day. Immediately on closing the polls, the commissioners of each ward, or a majority of them, shall count the ballots, and make out, under their hands and seals, a correct return of the two persons for the first election, and of the one person for all subsequent elections, having the greatest number of legal votes, together with the number of votes given to each, as members of the board of aldermen; and of the three persons having the greatest number of legal votes, together with the number of votes given to each, as members of the board of common council; and the two persons at the first election, and the one person at all subsequent elections, having the greatest number of legal votes for the board of aldermen; and the three persons having the greatest number of legal votes for the board of common council shall be duly elected; and in all cases of an equality of votes the commissioners shall decide by lot. The said returns shall be delivered to the mayor of the city, on the succeeding day, who shall cause the same to be published in some newspaper printed in the City of Washington. A duplicate return, together with a list of the persons who voted at such election, shall also be made by the said commissioners to the register of the city, on the day succeeding the election, who shall preserve and record the same; and shall, within two days thereafter, notify the several persons, so returned, of their election. And each board shall judge the legality of the elections, returns, and qualifications, of its own members; and shall supply vacancies in its own body, by causing elections to be made to fill the same in the ward and for the board in which such vacancies shall happen, giving at least five days' notice previous thereto; and each board shall have full power to pass all rules necessary and requisite to enable itself to come to a just decision in cases of a contested election of its members; and the several members of each board shall, before entering upon the duties of their office, take the following oath or affirmation: "I do swear, (or solemnly, sincerely, and truly affirm and declare, as the case may be,) that I will faithfully execute the office of —, to the best of my knowledge and ability," which oath or affirmation shall be administered by the mayor or some justice of the peace for the county of Washington.

SEC. 5. *And be it further enacted*, That, in addition to the powers heretofore granted to the corporation of the City of Washington, by an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia," and an act, entitled "An act, supplementary to an act, entitled an act to incorporate the inhabitants of the City of Washington,

in the District of Columbia," the said corporation shall have power to lay taxes on particular wards, parts, or sections of the city, for their particular local improvements; that, after providing for all objects of a general nature, the taxes raised on the assessable property in each ward shall be expended therein, and in no other, in regulating, filling up, and repairing of streets and avenues, building of bridges, sinking of wells, erecting pumps, and keeping them in repair; in conveying water in pipes, and in the preservation of springs; in erecting and repairing wharves; in providing fire engines and other apparatus for the extinction of fires; and for other local improvements and purposes, in such manner as the said board of aldermen and board of common council shall provide; but the sums raised for the support of the poor, aged, and infirm, shall be a charge on each ward, in proportion to its population or taxation, as the two boards shall decide. That whenever the proprietors of two-thirds of the inhabited houses, fronting on both sides of a street or part of a street, shall, by petition to the two branches, express their desire of improving the same by laying the curb-stone of the foot pavement, and paving the gutters or carriage way thereof, or otherwise improving said street agreeably to its graduation, the said corporation shall have power to cause to be done at any expense not exceeding two dollars and fifty cents per front foot, of the lots fronting on each improved street or part of a street, and charge the same to the owners of the lots fronting on said street or part of a street in due proportion; and also, on a like petition, to provide for erecting lamps for lighting any street or part of a street, and to defray the expense thereof, by a tax on the proprietors or inhabitants of such houses, in proportion to their rental or valuation, as the two boards shall decide.

SEC. 6. *And be it further enacted*, That the said corporation shall have full power and authority to erect and establish hospitals or pest-houses, work-houses, houses of correction, penitentiary and other public buildings, for the use of the city, and to lay and collect taxes for defraying the expenses thereof; to regulate party and other fences, and to determine by whom the same shall be made and kept in repair; to lay open streets, avenues, lanes, and alleys, and to regulate or prohibit all enclosures thereof; and to occupy and improve for public purposes, by and with the consent of the President of the United States, any part of the public and open spaces or squares in said city not interfering with any private rights; to regulate the measurement of, and the weight by, which all articles brought into the city for sale shall be disposed of; to provide for the appointment of appraisers and measurers of builders' work and materials, and also of wood, coals, grain, and lumber; to restrain and prohibit the nightly and other disorderly meetings of slaves, free negroes, and mulattoes, and to punish such slaves by whipping, not exceeding forty stripes, or by imprisonment, not exceeding six calendar months, for any one offence; and to

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punish such free negroes and mulattoes for such offences, by fixed penalties, not exceeding twenty dollars for any one offence; and, in case of the inability of any such free negro or mulatto to pay and satisfy any such penalty and cost thereon, to cause such free negro or mulatto to be confined to labor for such reasonable time, not exceeding six calendar months for any one offence, as may be deemed equivalent to such penalty and costs; to cause all vagrants, idle or disorderly persons, all persons of evil life or ill fame, and all such as have no visible means of support, or are likely to become chargeable to the city as paupers, or are found begging or drunk in or about the streets, or loitering in or about tippling houses, or who can show no reasonable cause of business or employment in the city; and all suspicious persons; and all who have no fixed place of residence, or cannot give a good account of themselves; all cavedroppers and night-walkers; all who are guilty of open profanity or grossly indecent language or behaviour publicly in the streets; all public prostitutes, and such as lead a notoriously lewd or lascivious course of life; and all such as keep public gaming tables or gaming houses, to give security for their good behaviour for a reasonable time, and to indemnify the city against any charge for their support; and in case of their refusal or inability to give such security, to cause them to be confined to labor for a limited time, not exceeding one year at a time, unless such security should be sooner given; but if they shall afterwards be found again offending, such security may be again required, and, for want thereof, the like proceedings may be again had, from time to time, as often as may be necessary; to prescribe the terms and conditions upon which free negroes, mulattoes, and others, who can show no visible means of support, may reside in the city; to cause the avenues, streets, lanes, and alleys, to be kept clean, and to appoint officers for that purpose; to authorize the drawing of lotteries for effecting any important improvement in the city, which the ordinary funds or revenue thereof will not accomplish: *Provided*, That the amount to be raised in each year shall not exceed the sum of ten thousand dollars: *And provided also*, That the object for which the money is intended to be raised, shall be first submitted to the President of the United States, and shall be approved of by him; to take care of, preserve and regulate the several burying grounds within the city; to provide for registering of births, deaths, and marriages; to cause abstracts or minutes of all the transfers of real property, both freehold and leasehold, to be lodged in the registry of the city at stated periods; to authorize night watches and patrols, and the taking up and confining by them in the night time of all suspected persons; to punish by law, corporeally, any servant or slave guilty of a breach of any of their by-laws or ordinances, unless the owner or holder of such servant or slave shall pay the fine annexed to the offence; and to pass all laws which shall be deemed necessary and proper for carrying into execution

the foregoing powers, and all other powers vested in the corporation or any of its officers, either by this act or any former one.

SEC. 7. *And be it further enacted*, That the Marshal of the District of Columbia shall receive and safely keep within the jail for Washington county, at the expense of the city, all persons committed thereto under the sixth section of this act; until other arrangements be made by the corporation for the confinement of offenders within the provisions of the said section. And in all cases where suit shall be brought before a justice of the peace, for the recovery of any fine or penalty arising or incurred for a breach of any by-law or ordinance of the corporation, upon a return of *nulla bona* to any *fiery facias* issued against the property of the defendant or defendants, it shall be the duty of the clerk of the circuit court for the county of Washington, when required, to issue a writ of *capias ad satisfaciendum* against every such defendant, returnable to the next circuit court for the county of Washington, thereafter, and which shall be proceeded on as in other writs of the like kind.

SEC. 8. *And be it further enacted*, That unimproved lots in the City of Washington, on which two years' taxes remain due and unpaid, or so much thereof as may be necessary to pay such taxes, may be sold at public sale for such taxes due thereon: *Provided*, That public notice be given of the time and place of sale, by advertising in some newspaper printed in the City of Washington, at least six months, where the property belongs to persons residing out of the United States; three months, where the property belongs to persons residing in the United States, but without the limits of the District of Columbia; and six weeks, where the property belongs to persons residing within the District of Columbia or the City of Washington; in which notice shall be stated, the number of the lot or lots, the number of the square or squares, the name of the person or persons to whom the same may have been assessed; and also the amount of taxes due thereon: *And provided also*, That the purchaser shall not be obliged to pay, at the time of such sale, more than the taxes due, and the expenses of sale; and that if within two years from the day of such sale the proprietor or proprietors of such lot or lots, or his or their heirs, representatives, or agents, shall repay to such purchaser the moneys paid for the taxes and expenses as aforesaid, together with ten per centum per annum as interest thereon, or make a tender of the same, he shall be reinstated in his original right and title; but if no such payment or tender be made within two years next after the said sale, then the purchaser shall pay the balance of the purchase money of such lot or lots into the city treasury, where it shall remain subject to the order of the original proprietor or proprietors, his or their heirs or legal representatives; and the purchaser shall receive a title in fee simple to the said lot or lots, under the hand of the mayor and seal of the corporation, which shall be deemed good and valid in law and equity.

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SEC. 9. *And be it further enacted*, That the said corporation shall in future be named and styled "the Mayor, Aldermen, and Common Council of the City of Washington;" and that if there shall have been a non-election or informality in the election of a city council on the first Monday in June last, it shall not be taken, construed, or adjudged, in any manner, to have operated as a dissolution of the said corporation, or to affect any of its rights, privileges, or laws, passed previous to the second Monday in June last, but the same are hereby declared to exist in full force.

SEC. 10. *And be it further enacted*, That the corporation shall, from time to time, cause the several wards of the city to be so located as to give, as nearly as may be, an equal number of voters to each ward; and it shall be the duty of the register of the city, or such officer as the corporation may hereafter appoint, to furnish the commissioners of election for each ward, on the first Monday in June annually, previous to the opening of the polls, a list of the persons having a right to vote, agreeably to the provisions of the second section of this act.

SEC. 11. *And be it further enacted*, That so much of any former act, as shall be repugnant to the provisions of this act, be, and the same is hereby, repealed.

Approved, May 4, 1812.

An Act to carry into effect an act of the Legislature of the State of Maryland.

Be it enacted, &c., That the act of the Legislature of the State of Maryland, entitled "An act to authorize two lotteries in the City of Washington," passed at the session of the said Legislature, in November, one thousand seven hundred and ninety five, for the purpose of raising fifty-two thousand and five hundred dollars be, and the same is hereby, declared to be in full force in the District of Columbia; and it shall and may be lawful to carry the same into effect, subject to the alterations, restrictions, and provisions hereinafter mentioned.

SEC. 2. *And be it further enacted*, That all the rights, power, and authority given, in and by the before recited act, to Daniel Carroll of Duddington, Lewis Deblois, George Walker, William M. Duncanson, Thomas Law, and James Barry, shall hereafter be vested in, and exercised by the President and Directors of the "Washington Canal Company:" *Provided*, The said President and Directors shall, before the sale or disposal of any ticket or tickets in said lotteries, give bond to the Treasurer of the United States, for the time being, in the penalty of one hundred thousand dollars, conditioned that they will truly and impartially exercise the power and authority vested in them by this act; and well and truly apply the moneys arising from the sale of the tickets, within two months after the drawing thereof, to the payment of the prizes drawn by the fortunate adventurers in said lotteries, and the necessary expenses incurred in the manage-

ment thereof, and the residue to the completing the canal in the city of Washington, and rendering the same navigable, and draining the marshes and low grounds contiguous thereto: *And provided also*, That it shall be lawful for Congress hereafter to create by law additional shares in the stock of said Washington Canal Company, for the sole use and benefit of the corporation of the city of Washington, which shares so to be created shall bear the same proportion to the whole shares held by said company, as the money raised by the aforesaid lotteries and actually applied to the completing the canal in the city of Washington, and rendering the same navigable, shall bear to the moneys and interest thereon, which has been or may hereafter be expended by the Washington Canal Company for the purposes aforesaid.

Approved, May 6, 1812.

An Act to provide for designating, surveying, and granting the Military Bounty Lands.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be surveyed a quantity of the public lands of the United States, fit for cultivation, not otherwise appropriated, and to which the Indian title is extinguished, not exceeding in the whole six millions of acres, two millions to be surveyed in the Territory of Michigan, two millions in the Illinois Territory, north of the Illinois river, and two millions in the Territory of Louisiana, between the river St. Francis and the river Arkansas; the said lands to be divided into townships, and subdivided into sections and quarter sections, (each quarter section to contain, as near as possible, one hundred and sixty acres,) in the manner prescribed by law for surveying and subdividing the other public lands of the United States; the same price to be allowed for surveying as is fixed for surveying the other public lands in the same Territory. And the lands thus surveyed, with the exception of the salt springs and lead mines therein, and of the quantities of land adjacent thereto, as may be reserved for the use of the same by the President of the United States, and the section number sixteen in every township, to be granted to the inhabitants of such township for the use of public schools, shall be set apart and reserved for the purpose of satisfying the bounties of one hundred and sixty acres, promised to the non-commissioned officers and soldiers of the United States, their heirs, and legal representatives, by the act, entitled "An act for completing the existing Military Establishment," approved the twenty-fourth day of December, one thousand eight hundred and eleven, and by the act, entitled "An act to raise an additional military force," approved the eleventh day of January, one thousand eight hundred and twelve.

SEC. 2. *And be it further enacted*, That the Secretary for the Department of War, for the time being, shall, from time to time, issue warrants for the military land bounties to the persons entitled thereto by the two last mentioned

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acts, or either of them: *Provided always*, That such warrants shall be issued only in the names of the persons thus entitled, and be by them or their representatives applied for within five years after the said persons shall have become entitled thereto; and the said warrants shall not be assignable or transferable in any manner whatever.

SEC. 3. *And be it further enacted*, That every person in whose favor such warrants shall have been issued, shall, on delivery of the same at the office of the Secretary of the Treasury, or of such other officer as may at the time have, by law, the superintendence of the General Land Office of the United States at the seat of Government, be entitled to draw by lot, in such manner as the officer at the head of the land office, under the direction of the President of the United States, may prescribe, one of the quarter sections surveyed by virtue of the first section of this act, in either of the said Territories which the person in whose favor such warrant has issued may designate. And a patent shall thereupon be granted to such person, for such quarter section, without requiring any fee therefor.

SEC. 4. *And be it further enacted*, That no claim for the military land bounties aforesaid shall be assignable or transferable in any manner whatever, until after a patent shall have been granted in the manner aforesaid. All sales, mortgages, contracts, or agreements, of any nature whatever, made prior thereto, for the purpose, or with intent of alienating, pledging, or mortgaging any such claim, are hereby declared, and shall be held null and void; nor shall any tract of land, granted as aforesaid, be liable to be taken in execution, or sold on account of any such sale, mortgage, contract, or agreement, or on account of any debt contracted prior to the date of the patent, either by the person originally entitled to the land, or by his heirs or legal representatives, or by virtue of any process, or suit at law, or judgment of court against a person entitled to receive his patent as aforesaid.

Approved, May 6, 1812.

An Act in addition to the act to regulate the laying out and making a road from Cumberland in the State of Maryland to the State of Ohio.

Be it enacted, &c., That, in addition to the unexpended balance of the sum heretofore appropriated for laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, the sum of thirty thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the direction of the President of the United States, in making said road between Cumberland, in the State of Maryland, and Brownsville, in the State of Pennsylvania, commencing at Cumberland; which sum of thirty thousand dollars shall be paid out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the seventh section of an act passed on

the thirtieth day of April, one thousand eight hundred and two, entitled "An act to enable the people of the Eastern division of the Territory Northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

Approved, May 6, 1812.

An Act for the relief of the citizens of Venezuela.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be purchased such provisions as he shall deem advisable, and to tender the same in the name of the Government of the United States to that of Venezuela, for the relief of the citizens who have suffered by the late earthquake.

SEC. 2. *And be it further enacted*, That a sum not exceeding fifty thousand dollars be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, to carry into operation this act.

Approved, May 8, 1812.

An Act to alter and establish certain Post Roads.

Be it enacted, &c., That the following post routes be discontinued:

From Jacksonborough, in South Carolina, by Barnwell court-house, to Augusta, in Georgia.

From Rahway to New Providence; and from Baskenridge to Somerset, in New Jersey.

From Fort Stoddert to Natchez, in the Mississippi Territory.

From Gallipolis to Chillicothe, in Ohio.

From Salisbury to Lincolnton, in North Carolina.

From Peytonsburg to Danville.

From Salisbury, by Andover, New Chester, and Bridgewater, to Plymouth; thence by Holderness, New Hampton, and Sandbornton, to Salisbury, in New Hampshire.

From Baltimore, by Queenstown, to Centreville, in Maryland.

From Buchanan to Beverly, in Virginia.

SEC. 2. *And be it further enacted*, That the following post roads be established:

In New Hampshire.—From Hopkinton, through Warner, Bradford, Fishersfield, Wendell, and Newport, to Cornish, in the county of Cheshire.

From Concord, in the county of Rockingham, through Weare, Dearing, Hancock, and Packersfield, to Keene, in the county of Cheshire.

From Gilmanton to Meredith.

From Concord, by Loudon, Gilmanton, Meredith, and New Holderness, to Plymouth; thence by New Hampton, Sandbornton, Northfield, and Canterbury, to Concord.

Massachusetts.—From Blue Hill to Sedgwick.

From Kennebunk to Arundel.

From Readfield, by Fayette, to Livermore.

Rhode Island.—From Providence, through Gloucester, to Pomfret, in the State of Connecticut.

Connecticut.—From Canton, in Hartford coun-

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ty, by New Hartford, and Torrington, to Goshen, in Litchfield county.

From Hartford, through Bristol, Plymouth, Watertown, Woodbury, Southbury, and Newtown, to Danbury.

New York.—From Jamaica, through the Alley, and by the head of Cowneck, to Hempstead harbor, and through Oyster bay to Huntington; this is declared to be an alteration of the existing post route.

From Trip's hill, by Montgomery court-house, to Sheldon's, in the county of Oneida.

From Madison, by Cazenovia, to Manlius.

From Rome, through Constantia and Mexico, to Oswego.

From Kinderhook, in New York, by Spencer town, to West Stockbridge, in Massachusetts.

New Jersey.—From Morristown to Easton, in Pennsylvania.

From Scotch Plains to New Providence.

From Salem, by Hancock's bridge and New Canton, to Greenwich, in Cumberland county.

Pennsylvania.—From Bedford, by Stoystown and Ligoniers, to Greensburg.

From Pittsburg, by Baldwin's mills, Steubenville, and Cadiz, to Cambridge, in the State of Ohio.

From Quakertown, by Saucona, to Northampton.

From Belfont, by the counties of Clearfield and Jefferson, to Venango.

From Bear Gap, by Danville, to Washington.

From New Alexandria to Pittsburg.

From Greensburg to New Castle, in the county of Mercer.

Ohio.—From New Lisbon, by Wayne court-house, Richland court-house, and Knox court-house; returning by Coshocton court-house and Canton, to New Lisbon.

From Chillicothe, by Fayette court-house, Green court-house, and Dayton, to Easton; returning from Green court-house, by Clinton court-house and Greenfield, to Chillicothe.

From Urbana to Springfield.

From Gallipolis to Athens, in Ohio.

From Huron to Danbury.

Maryland.—From Princess Ann to the corner where the roads from the Point and Pocomoke intersect.

From Annapolis, by Broad Creek, in Kent island and Queen's town, to Centreville.

Virginia.—From Dunkirk to New Kent court-house.

From Front Royal to Waynesborough.

The post road from Stannardsville, in Orange county, to Port Republican, in Rockingham, is declared to be altered so as to pass over the South Mountain at Brown's turnpike on the same.

From Paris, in Fauquier county, to Gibson's store.

From Staunton, by Pendleton court-house, to Beverly.

From Halifax court-house to Danville, and from Beverly to Clarksburg.

Kentucky.—From Washington, by Flemingsburg, to Mount Sterling.

From Grayson to Butler court-house.

From Russellville to Isbellville, in Christian county.

From Nicholasville, by the mouth of Hickman and Bellises mill, to Danville, Kentucky.

Tennessee.—From Carthage to New Glasgow, in Kentucky.

From Hopkinsville, in Kentucky, to Clarks-ville, in Tennessee; and from thence, by Dickson court-house, and McAllister's cross roads, to Columbia, in Tennessee.

North Carolina.—From Charlotte, by Beattysford, Lincolnton, and Morgan, to Wilkesboro', and to pass by Mountmorin once in every two routes.

From Statesville to Salisbury.

The mail from Fayetteville to Salisbury, shall go by Rockingham, Wardsboro', Allentown, and Henderson, to Salisbury, and return by McCauley's store, to Fayetteville.

South Carolina.—From Charleston, by Giveham's ferry, on Edisto river; and from thence to Barnwell court-house, and by the White Ponds, to Edgefield court-house.

From Wellington to Beckley's store, being an alteration of the present route past Vienna.

From Coosawhatchie, by Lower Three Runs, to Augusta, in Georgia.

From Darlington court-house to Sumpter court-house, by Carter's crossing.

Georgia.—From Savannah to Louisville.

From Milledgeville, by Twigs court-house, to Pulaski court-house.

From Augusta to Campbeltown.

From Louisville to Saundersville.

Mississippi Territory.—From Fort Stoddert, by Amite court-house, to Pinckneyville.

From Natchez, by Wilkinson court-house, to Lake Ponchartrain.

Indiana Territory.—From Laurenceburg, by Madison and Charlestown, to Jeffersonville.

From Laurenceburg, by Franklin court-house, to Wayne court-house.

SEC. 3. *And be it further enacted*, That the Postmaster General cause a survey to be made of the main post road from Robinstown, in the district of Maine, to St. Mary's, in Georgia, causing the courses, distances, and all remarkable objects, to be noted, the latitude to be taken every noon and evening, and the variation of the compass every evening, when the weather is fair; and that there be not less than one surveyor, two chain carriers, and two men with object staves, employed in making the same survey, who shall be sworn to execute the work: *Provided*, That the same can be done at an expense not exceeding two dollars per mile; and the Postmaster General is hereby authorized to procure proper instruments for the purpose: *Provided*, That the expense do not exceed three hundred dollars, and the expense both of the surveys and instruments be paid out of the moneys, which may be in his hands for postage.

Approved, May 11, 1812.

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An Act for the better regulation of the Ordnance.

Be it enacted, &c., That there be, and hereby is, established an Ordnance Department, to consist of a Commissary General of Ordnance, an Assistant Commissary General, four Deputy Commissaries, and as many Assistant Deputy Commissaries as the President of the United States may think necessary, not exceeding eight.

SEC. 2. *And be it further enacted,* That the Commissary General be authorized, from time to time, to employ as many wheelwrights, carriage-makers, blacksmiths, and laborers, as the public service may, in his judgment, require.

SEC. 3. *And be it further enacted,* That the Commissary General of Ordnance shall be entitled to the rank, pay, and emoluments, of a colonel of infantry, and be further allowed at the rate of five hundred dollars per year, and four rations per day for clerks in his department: the Assistant Commissary General of Ordnance shall be entitled to the rank, pay, and emoluments, of major of infantry, with three additional rations per day; the Deputy Commissaries of Ordnance shall be entitled to the rank, pay, and emoluments, of a captain of infantry, with two additional rations per day and forage for one horse; the Assistant Deputies shall have the rank, pay, and emoluments, of a second lieutenant of infantry, with one additional ration per day.

SEC. 4. *And be it further enacted,* That a master wheelwright and carriage-maker, and a master blacksmith, be allowed thirty dollars each per month, and one ration and one-half of a ration per day; that any other wheelwrights, carriage-makers and blacksmiths, be allowed each sixteen dollars per month, and one ration and one-half of a ration per day; that the laborers each be allowed nine dollars per month, and one ration per day.

SEC. 5. *And be it further enacted,* That it shall be the duty of the Commissary General of Ordnance to direct the inspection and proving of all pieces of ordnance, cannon balls, shells, and shot, procured for the use of the Army of the United States; and to direct the construction of all carriages, and every apparatus for ordnance, for garrison and field service, and all ammunition wagons, pontoons, and travelling forges; also the direction of the laboratories, the inspection and proving the public powder, and the preparing all kinds of ammunition for garrison and field service; and shall, half yearly, examine all ordnance, carriages, ammunition, and apparatus, in the respective fortresses, magazines, and arsenals, and cause the same to be preserved and kept in good order.

SEC. 6. *And be it further enacted,* That the Commissary General of Ordnance shall execute all orders issued by the Secretary for the Department of War, in conveying all ordnance, ammunition, and apparatus, to the respective armies, garrisons, magazines, and arsenals; and in time of war he shall execute all orders of any general officer, commanding in any army or garrison, for the supply of ordnance, ammunition, carriages, pontoons, forges, furnaces, or apparatus, for gar-

rison, field or siege service, and forward the same without delay and in good condition.

SEC. 7. *And be it further enacted,* That the Commissary General of Ordnance shall, half yearly, transmit to the Department of War a correct return of all ordnance, ammunition, military stores, and effects, in the respective garrisons, arsenals, magazines, posts, and camps, with a statement of their order, quality, and condition; and, also, what may be necessary to keep up an ample supply of each and every article in the Ordnance Department, and shall, in all things, faithfully, and without delay, execute the orders of the Secretary for the Department of War touching the same.

SEC. 8. *And be it further enacted,* That the superintendents of military stores, keepers of magazines and arsenals, shall, half yearly, make correct returns, to the Commissary General of Ordnance, of all military stores that they respectively have in charge; and that the Assistant Commissary General of Ordnance, the Deputy Commissaries and Assistant Deputies shall faithfully, and without delay, execute all orders that shall be issued by the Secretary for the Department of War, the commanding General, in time of war, of any corps, camp, or garrison, or of the Commissary General of Ordnance, in their respective departments, by virtue of this act.

SEC. 9. *And be it further enacted,* That the Commissary General of Ordnance shall make a correct report of the artificers and laborers, from time to time, employed by him, and transmit the same to the Adjutant General.

SEC. 10. *And be it further enacted,* That, for defraying the expense that may be incurred in the execution of this act, the sum of twenty thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, May 14, 1812.

An Act to enlarge the boundaries of the Mississippi Territory.

Be it enacted, &c., That all that portion of territory lying east of Pearl river, west of the Perdido, and south of the thirty-first degree of latitude, be, and the same is hereby, annexed to the Mississippi Territory; to be governed by the laws now in force therein, or which may hereafter be enacted, and the laws and ordinances of the United States, relative thereto, in like manner as if the same had originally formed a part of said territory; and, until otherwise provided by law, the inhabitants of the said district hereby annexed to the Mississippi Territory, shall be entitled to one representative in the General Assembly thereof.

Approved, May 14, 1812.

An Act making an additional appropriation for the support of Government for the year one thousand eight hundred and twelve.

Be it enacted, &c., That, in addition to the sums appropriated by the act making appropriations for the support of Government for the year one

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thousand eight hundred and twelve, the following sums be, and the same are hereby, respectively appropriated, that is to say:

For defraying the expenses of printing the subscription certificates, and issuing the same to the subscribers to the loan of eleven millions of dollars, authorized by the act of Congress passed on the fourth day of March, one thousand eight hundred and twelve, including cost of paper and other expenses incident to the receiving of the subscriptions; also for cost of paper and printing of the certificates of funded six per cent. stock, to be issued for the amount of the said loan, and other expenses attending the funding of the same, five thousand dollars.

For the expenses of making a digest of the manufactures of the United States, under the joint resolution of both Houses of Congress, passed at the present session, two thousand dollars.

For compensation to the marshals and assistant marshals for taking an account of the manufactures of the United States, in addition to the sum heretofore appropriated for that purpose, forty thousand dollars.

For the expense of firewood, stationery, printing, and other contingent expenses of the two Houses of Congress, in addition to the sum heretofore appropriated for that purpose, eight thousand eight hundred dollars.

For paying Aaron Greeley, assistant surveyor in the district of Detroit, for surveying private claims in the Michigan Territory, pursuant to an act of Congress, passed the twenty-fourth day of April, one thousand eight hundred and twelve, five thousand five hundred sixty-five dollars and ninety-three cents.

SEC. 2. *And be it further enacted*, That the several sums thus appropriated shall be paid out of any moneys in the Treasury not other appropriated.

Approved, May 16, 1812.

An Act making further provision for the Army of the United States.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to appoint so many district paymasters, as, in his judgment, the service may require; and if such paymasters are taken from the line of the army, they shall, respectively, receive thirty dollars per month, in addition to their pay in the line: *Provided*, The same shall in no case exceed the pay and emoluments of a major; and, if not taken from the line, they shall receive the same pay and emoluments as a major of infantry.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and empowered to appoint a paymaster to each regiment on the Peace Establishment, who shall receive the same pay and emoluments as a captain of the regiment to which he belongs: *Provided*, That all district and regimental paymasters shall be subject to the rules and articles of war, and give such bonds to the United States as the Secretary for the Depart-

ment of War may direct, for the faithful performance of their duties. And it shall be the duty of the commanding officer, when requested by the paymaster, to furnish a capable non-commissioned officer or soldier to aid him in the discharge of his duty, who, while so employed, shall receive double pay.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to appoint, from the captains and subalterns of the line of the army, so many sub-inspectors as the service may require, not exceeding one to each brigade; and such sub-inspectors shall each receive twenty-four dollars per month, in addition to his pay in the line.

SEC. 4. *And be it further enacted*, That each brigade major, provided by law, shall be allowed twenty-four dollars per month, in addition to his pay in the line.

SEC. 5. *And be it further enacted*, That the General, commanding the Army of the United States, shall be allowed a secretary, to be taken from the line of the army, who shall receive twenty-four dollars per month, in addition to his pay in the line, and shall be allowed forage for two horses.

SEC. 6. *And be it further enacted*, That, in addition to the non-commissioned officers and privates allowed to the regiment of light artillery, each company shall be entitled to twelve drivers of artillery, who shall be enlisted for five years, unless sooner discharged, and receive the same pay, rations, and clothing, as the privates of the army: *Provided*, Such drivers of artillery shall, at all times, be liable to do duty in the ranks when the company shall not be mounted.

SEC. 7. *And be it further enacted*, That so much of the "Act for establishing rules and articles for the government of the armies of the United States," as authorizes the infliction of corporal punishment, by stripes or lashes, be and the same hereby is repealed.

Approved, May 16, 1812.

An Act to incorporate a Bank in the town of Alexandria, by the name and style of "The Mechanics' Bank of Alexandria."

Be it enacted, &c., That the subscribers to the Mechanics' Bank of Alexandria, their successors, and assigns, shall be and they are hereby created and made a body politic, by the name and style of "The Mechanics' Bank of Alexandria," and by that name and style shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, hereditaments, goods, chattels, and effects, of what kind, nature, or quality, soever, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever, subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 2. *And be it further enacted*, That the

capital stock of said corporation may consist of five hundred thousand dollars, divided into shares of ten dollars each, and shall be paid in manner following, that is to say: one dollar on each share at the time of subscribing, one dollar on each share at sixty days, and one dollar on each share ninety days after the time of subscribing; the remainder to be called for as the president and directors may deem proper: *Provided*, They do not call for any payment in less than thirty days, nor for more than one dollar on each share at any one time.

SEC. 3. *And be it further enacted*, That the subscription for filling up said stock shall be opened at the court-house in the town of Alexandria on the first Monday in June next, under the direction of fifteen commissioners, and that John Longden, William Veitch, James C. Deaneale, Daniel McLeod, John Cobagen, James McGuire, Adam Lynn, Mark Butts, Joseph Dean, James Sanderson, John Young, Isaac Entwistle, Robert Young, Peter Saunders, and John Gird, are hereby appointed commissioners for that purpose; which subscriptions shall be kept open for one day at least, and such further time as said commissioners may direct; but, in case the amount of the subscriptions shall exceed the number of shares herein before allowed to be subscribed, the excess thus created shall be reduced within the number of shares authorized to be subscribed as aforesaid, in the manner following to wit, that is to say: from the subscriptions highest in amount the commissioners shall subtract a share or shares, until the same be made equal to the subscription or subscriptions next highest in amount, and until the number of shares shall be reduced to the amount authorized to be subscribed aforesaid: *Provided, always*, That it be hereby expressly understood that all the subscriptions and shares, obtained in consequence thereof, shall be deemed and held to be for the sole and exclusive use and benefit of the persons, copartnerships, or bodies politic subscribing, or in whose behalf the subscriptions, respectively, shall be declared to be made at the time of making the same; and all bargains, contracts, promises, agreements, and engagements, in anywise contravening this provision, shall be void; and the persons, copartnerships, or bodies politic, respectively, so subscribing, or for whose use the subscriptions are declared to be made as aforesaid, shall have, enjoy, and receive the share or shares, respectively, in consequence thereof obtained, and all the interests and emoluments thence arising, as freely, fully, and absolutely, as if they had severally and respectively paid the consideration therefor, any such bargains, contracts, promises, agreements, or engagements, to the contrary thereof to the contrary notwithstanding.

SEC. 4. *And be it further enacted*, That the lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been conveyed to it in satisfaction of

debts previously contracted in the course of its dealings, or purchased at sales on judgments which shall have been obtained for such debts; nor shall this corporation, directly or indirectly, deal in or trade in anything except bills of exchange, gold or silver bullions, or in the sale of goods which shall be the produce of its land, or of goods sold by virtue of an execution on a judgment obtained by them.

SEC. 5. *And be it further enacted*, That, for the well-ordering the affairs of the said corporation, there shall be fifteen directors, eight of which directors at least shall be practical mechanics, and not less than ten of said directors shall be resident in the town of Alexandria, of whom there shall be an election on the first Monday after the subscription shall be closed, and on the second Monday of March in each year thereafter, by the stockholders or proprietors of the capital stock of the said corporation, and by a plurality of votes actually given: *Provided, however*, That the eight mechanics shall first be declared elected, though they should not have the greatest number of votes; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the second Monday in March next ensuing the time of such election, and until others shall be chosen. And the said directors, at their first meeting after each election, shall choose one of their number as president. No person a director of another bank, or the partner in trade of a director of another bank, shall be a director in this bank: *Provided*, That, in case it should at any time happen that an election of directors should not be made upon any day when, pursuant to this act, it ought to have been made, the corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day, within thirty days thereafter, to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of said corporation.

SEC. 6. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting; but the directors shall make such compensation to the president, for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SEC. 7. *And be it further enacted*, That the board of directors, by a majority of votes, shall make by-laws, determine the manner of doing business, and the rules and forms to be pursued, and dispose of the money and credit of the bank, in such manner as shall seem to them best calculated to promote the interest of the stockholders.

SEC. 8. *And be it further enacted*, That a majority of the whole number of directors shall be necessary in the choice of a president, cashier, and other officers of the bank; but four members, with the president, may constitute a board for transacting the ordinary business of the bank.

SEC. 9. *And be it further enacted*, That neither

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the president, nor any director, shall be entitled to receive, on accommodation paper, discounts, or loans, exceeding, in the whole, five thousand dollars, renewable, however, from time to time, at the discretion of the president and directors.

SEC. 10. *And be it further enacted*, That the president and directors, for the time being, shall have power to appoint such officers and servants under them as may be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall seem reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering of the affairs of the said corporation, as shall be described, fixed, and determined, by the laws, regulations and ordinances of the same.

SEC. 11. *And be it further enacted*, That any director, officer, or other person, holding any share or capital of the said bank stock, who shall commit any fraud or embezzlement, touching the money or property of said bank, shall be liable to be prosecuted in the name of the United States, by indictment for the same, in any court of law for the district or county wherein the offence shall be committed; and, upon conviction thereof, shall, besides the remedy that may be had by action, in the name of the Mechanics' Bank of Alexandria, for the fraud aforesaid, forfeit to the company all his share and stock in the said bank.

SEC. 12. *And be it further enacted*, That every stockholder, being a citizen of the United States, shall be entitled to vote at all elections to be holden by the stockholders, in pursuance of this act, and shall have as many votes, in proportion to the stock he may hold, as follows: for one share, one vote; three shares, two votes; five shares, three votes; above five shares, and not exceeding fifty, for each five shares above five shares, one vote; and upwards of fifty shares, for each ten shares, one vote. No share or shares shall confer a right of suffrage which shall not have been regularly transferred, on the books of the corporation, two months previous to the election; and it shall be the duty of the cashier to make out a list of the stockholders, thirty days previous to an election, for their inspection. And, in choice of directors, every stockholder shall vote in person, except those who shall reside out of the town of Alexandria, who may vote either in person or by a written ballot, by him or her subscribed with his or her name, and duly acknowledged before a judge of a court, a justice of peace, or a notary public. a certificate whereof shall be made on said ballot by the said judge, justice of the peace, or notary public, before whom such acknowledgment shall be made; and said ballot shall be by him sealed up, and in his handwriting addressed to the cashier of the bank, and, being transmitted to said cashier, before the time of the election of directors, said ballot shall be received and counted in the choice of directors. And every stockholder may sell and transfer his stock in the said bank, or any part thereof, at his pleasure, not being less than one complete

share or shares; the transfer being made in the bank books, in the presence, and with the approbation of the proprietor or his lawful attorney.

SEC. 13. *And be it further enacted*, That no stockholder or member of said corporation shall be answerable for any losses, deficiencies, or failure of the capital stock of the said bank, for any more, or larger sum or sums of money whatsoever, than the amount of stock, stocks, or shares, which shall appear by the books of said corporation to belong to him at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: If the total amount of debts which said company shall at any time owe, whether by bond, note, bill, or other contract, shall exceed twice the amount of the capital stock of the said bank, over and above the moneys actually deposited in the bank for safe-keeping; then, in case of such excess, the directors, under whose administration it shall happen, shall be liable for such excess in their natural and private capacities; and an action or actions of debt may be brought against them, or any of their heirs, executors, or administrators, in any court of record within the United States, by any creditor or creditors of said corporation; and may be prosecuted to judgment and execution, any condition, or covenant, or agreement, to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or lands, tenements, goods, and chattels of the same from being also liable for, and chargeable with, said excess; *Provided*, That such of the said directors who may have been absent when said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stockholders, at a general meeting which he or they shall have power to call for that purpose. And in case the directors, by whose act such excess shall be occasioned, shall not have property to pay the amount of such excess, then each and every stockholder shall be liable in their private capacities, for their deficiencies, in proportion to their respective shares in the said bank.

SEC. 14. *And be it further enacted*, That none but a stockholder, being a citizen of the United States, shall be eligible as a president or director.

SEC. 15. *And be it further enacted*, That the president and directors for the time being, shall give four weeks' public notice in the newspapers of Alexandria, and in one or more newspapers in the City of Washington, of the time and place of holding the election of directors, annually.

SEC. 16. *And be it further enacted*, That the president, and each director, before he enters upon the duties of his office, shall take the following oath or affirmation (as the case may be:) I — do solemnly swear, or affirm, that I will impartially, faithfully, diligently, and honestly, execute the duties of — of the Mechanics' Bank of Alexandria, conformably to the constitution of the same, and the trust reposed in me, to the best

of my skill and judgment: and the President shall give bond and security for the faithful discharge of his duties, to the satisfaction of the directors; the cashier, other officers, and servants, shall also take an oath, and give bond and security to the satisfaction of the president and directors.

SEC. 17. *And be it further enacted*, That all bills, bonds, notes, and every other contract or engagement on behalf of the corporation, shall be signed by the president and countersigned by the cashier; and the funds of the corporation shall, in no case, be liable for any contract or engagement, unless the same shall be signed and countersigned as aforesaid; and the president and directors shall not issue any note for a smaller sum than five dollars.

SEC. 18. *And be it further enacted*, That, if the president, or any director, the cashier, or any other officer of the said bank, shall be concerned directly, or indirectly, in purchasing any note or notes, bill, or bills, at more than lawful discount or interest, and information thereof be given and supported to the satisfaction of a majority of the board of directors, his or their seat or seats of office shall be vacated, and the directors shall fill up such vacancy or vacancies.

SEC. 19. *And be it further enacted*, That, in case of death, disqualification, or resignation of the president, or any director, or any officer or servant of the said corporation, the board of directors shall, at their next meeting, fill such vacancy; and in case of sickness or necessary absence of the president, his place may be supplied by a director, to be appointed president *pro tempore*, by the president, and, on his failing to make such appointment, by the directors.

SEC. 20. *And be it further enacted*, That it shall not be lawful for the president and directors to demand or receive a greater discount or interest, than at the rate of one per cent. for sixty days, upon any loans or advances of money which they may make.

SEC. 21. *And be it further enacted*, That the shares of the capital stock shall be transferable at any time, according to such rules as may be established by the president and directors; but no stock shall be transferred, the holder thereof being indebted to the bank, until such debt be satisfied, except the president and directors shall otherwise order it.

SEC. 22. *And be it further enacted*, That a number of stockholders, not less than forty, who, together, shall be proprietors of twenty thousand shares or upwards, shall have power at any time to call a general meeting of the stockholders, for purposes relative to the constitution, giving at least six weeks notice in one or more newspapers in the town of Alexandria and City of Washington, specifying in such notice the object or objects of such meeting.

SEC. 23. *And be it further enacted*, That, on application being made, the president and directors may loan to the United States any sum or sums, not exceeding one-fourth of their capital, on such terms as may be agreed upon.

SEC. 24. *And be it further enacted*, That when-

ever any note shall be given, containing express consent in writing that it may be negotiable at the said bank, and the same shall be endorsed, if payment be refused, or neglected to be made at the time it shall have become due, the like proceedings are to be had out of court, and suit may be prosecuted against the drawer and endorser, jointly or separately, in like manner, as if the same was a bill of exchange.

SEC. 25. *And be it further enacted*, That if any person or persons shall forge or counterfeit any of the notes or checks on or of the said bank, or pay or tender in payment, or in any manner pass or offer to pass such forged or counterfeited note or check, knowing the same to be forged or counterfeited, and shall thereof be convicted in any court of the United States having criminal jurisdiction, he, she, or they, shall be adjudged a felon or felons.

SEC. 26. *And be it further enacted*. That if any stockholder shall fail to pay up the several instalments upon his subscription, as the same may become due, his dividends upon such instalments as he may have paid shall cease as to him, and remain to the use and benefit of the other members of the corporation.

SEC. 27. *And be it further enacted*, That the president and directors shall, as soon as they may deem it expedient, declare a dividend of profits, and every half year thereafter shall make and declare such dividends of profit as they may deem proper: *Provided*, Such dividends shall not impair the capital stock; but no dividend shall be declared except by a majority of all the directors.

SEC. 28. *And be it further enacted*, That the Secretary of the Treasury of the United States shall be furnished, at least once in every year, and oftener if he shall require it, with statements of the capital stock of the said corporation, and of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in bank; and shall have a right to inspect such general accounts in the books of said bank as shall relate to said statements: *Provided*, That this shall not be construed to imply a right of inspecting the accounts of any private individuals with the bank.

SEC. 29. *And be it further enacted*, That this corporation shall continue until the first day of January, in the year of our Lord one thousand eight hundred and twenty-two; but, nevertheless, the proprietors of two-thirds of the capital stock of said company may, by their concurrent votes at a general meeting to be called for that purpose, dissolve the same at an earlier period: *Provided*, That notice of such meeting and its object shall be published in two or more newspapers printed within the District of Columbia, for at least three months successively, previous to the time appointed for such meeting.

SEC. 30. *And be it further enacted*, That on the dissolution of this corporation, or whenever the same shall be determined on as aforesaid, effectual measures shall immediately be taken, by the president and directors then in office, for

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closing all the concerns of the corporation, and for dividing the capital and profits which may remain among the stockholders, in proportion to their respective interests; and so much of this act as will enable them to close the concerns of the corporation, and so much as imposes a punishment or penalty for crimes, or for malfeasance, in this act described, shall remain and be in full force until all the affairs of the corporation are finally settled, but no discount shall be made by the said corporation after the first day of January, in the year of our Lord one thousand eight hundred and twenty-two.

SEC. 31. *And be it further enacted*, That this act shall take effect from and after the passing thereof, and shall, to all intents and purposes, be a public act.—[Approved, May 16, 1812.]

An Act to authorize the President of the United States to ascertain and designate certain boundaries.

Be it enacted, &c., That the Surveyor General, under the direction of the President of the United States, be, and he is hereby, authorized and required, (as soon as the consent of the Indians can be obtained,) to cause to be surveyed, marked, and designated, so much of the western and northern boundaries of the State of Ohio, which have not already been ascertained, as divides said State from the Territories of Indiana and Michigan, agreeably to the boundaries as established by the act, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," passed April thirtieth, one thousand eight hundred and two; and to cause to be made a plat or plan of so much boundary line as runs from the southerly extreme of Lake Michigan to Lake Erie, particularly noting the place where the said line intersects the margin of said lake, and to return the same, when made, to Congress: *Provided*, That the whole expense of surveying and marking the said boundary lines shall not exceed five dollars for every mile that shall be actually surveyed and marked, which shall be paid out of the moneys appropriated for defraying the expense of surveying the public lands.

Approved, May 20, 1812.

An Act to extend the right of suffrage in the Illinois Territory, and for other purposes.

Be it enacted, &c., That, upon the admission of the Illinois Territory into the second grade of territorial government, in conformity with the provisions of the act, entitled "An act for dividing Indiana into two separate governments," each and every free white male person who shall have attained the age of twenty-one years, and who shall have paid a county or territorial tax, and who shall have resided one year in said Territory previous to any general election, and be, at the time of any such election, a resident thereof, shall be entitled to vote for members of the

Legislative Council and House of Representatives for the said Territory.

SEC. 2. *And be it further enacted*, That so soon as the Governor of the said Territory shall divide the same into five districts, the citizens thereof, entitled by this act to vote for Representatives to the General Assembly, shall, in each of the said districts, elect one member of the Legislative Council, who shall possess the same powers heretofore granted to the Legislative Council by the ordinance for the government of the Northwestern Territory, and shall hold their offices four years and no longer, anything in the ordinance to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the citizens of the said Territory, entitled to vote for members of the Territorial Legislature by this act, may, at the time of electing their representatives to the General Assembly thereof, also elect one delegate to Congress for the said Territory, who shall possess the same powers heretofore granted to the delegates from the several Territories of the United States.

SEC. 4. *And be it further enacted*, That the sheriffs of the several counties which now are, or hereafter may be, established in the said Territory, respectively, shall, within forty days next after an election for a delegate to Congress, transmit to the Secretary of the said Territory a certified copy of the returns from the several districts or townships of their respective counties; and it shall be the duty of the Governor, for the time being, to give, to the person having the greatest number of votes, a certificate of his election.

SEC. 5. *And be it further enacted*, That each and every sheriff, in each and every county, that now is, or hereafter may be established in said Territory, who shall neglect or refuse to perform the duties required by this act, shall forfeit one thousand dollars, to be recovered, by an action of debt, in any court of record within the said Territory, one half to the use of the Territory, and the other half to the use of the person suing for the same.

SEC. 6. *And be it further enacted*, That the General Assembly of the said Territory shall have power to apportion the representatives of the several counties, which now are, or hereafter may be, established therein, according to the number of free white male inhabitants, above the age of twenty-one years, in such counties: *Provided*, That there be not more than twelve, nor less than seven, of the whole number of representatives, until there shall be six thousand free white male inhabitants, above the age of twenty-one years, in said Territory, after which time the number of representatives shall be regulated agreeably to the ordinance for the government of the Territory northwest of the river Ohio.

Approved, May 20, 1812.

An Act to amend an act, entitled "An act to establish a Quartermaster's department, and for other purposes."

Be it enacted, &c., That neither the Quartermaster General, the Commissary General, nor any

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or either of their deputies or assistant deputies, shall be concerned, directly or indirectly, in the purchase or sale, for commercial purposes, of any article intended for making a part of, or appertaining to their respective departments, except for, and on account of, the United States; nor shall they, or either of them, take or apply to his or their own use, any gain or emolument for negotiating or transacting any business in their respective departments, other than what is or may be allowed by law.

SEC. 2. *And be it further enacted*, That the Quartermaster General be and he is hereby empowered to appoint one principal barrackmaster, and as many deputy barrackmasters, as may from time to time be necessary, not exceeding one to each separate barrack or cantonment: which said principal barrackmaster shall be entitled to receive the same pay, rations, and emoluments, as the principal foragemaster; and each of his deputies, the same pay, rations, and emoluments, as is by law allowed to a deputy foragemaster.

SEC. 3. *And be it further enacted*, That, in addition to the allowance made to the Quartermaster General and Commissary General, respectively, in and by the act hereby amended, it shall and may be lawful for the Secretary for the Department of War, for the time being, to allow to them, respectively, such sums as, in his opinion, shall have been actually and necessarily expended in their several departments for office rent, fuel, candles, and extra clerk hire.

SEC. 4. *And be it further enacted*, That the Quartermaster General, the Deputy Quartermasters, and the Assistant Deputy Quartermasters, shall, before they, or either of them, enter upon the duties of their appointment, respectively, enter into bond with sufficient security, to be approved by the Secretary of War, conditioned for the faithful expenditure of all public moneys, and accounting for all public property, which may come to their hands, respectively; and the Quartermaster General shall not be liable for any money or property that may come into the hands of the subordinate officers of his department.

SEC. 5. *And be it further enacted*, That the sixth section of the act hereby amended be and the same is hereby repealed.

Approved, May 22, 1812.

An Act supplementary to an act, entitled "An act for the admission of the State of Louisiana into the Union, and to extend the laws of the United States to the said State."

Be it enacted, &c., That all causes, actions, indictments, libels, pleas, processes, and proceedings whatsoever, returnable, commenced, depending, or in any manner existing in the district court established in the Territory of Orleans, in and by the act, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," be and the same are hereby transferred to the district court established by the act to which this is a supplement, and may be proceeded in, shall exist, and have like incidents

and effects, as if they had been originated and been proceeded in by the court established by the act to which this is a supplement.

SEC. 2. *And be it further enacted*, That the dockets, books, records, papers, and seal, belonging to the said district court of the Orleans Territory, shall be transferred to, and become the dockets, books, records, and papers, of the district court of the Louisiana district.

SEC. 3. *And be it further enacted*, That the eighth section of the act aforesaid, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," and also, all acts within the purview of this act, and the one to which this is a supplement, be and the same are hereby repealed.

Approved, May 22, 1812.

An Act providing for the government of the Territory of Missouri.

Be it enacted, &c., That the Territory heretofore called Louisiana shall hereafter be called Missouri, and that the temporary government of the Territory of Missouri shall be organized and administered in the manner hereinafter described.

SEC. 2. *And be it further enacted*, That the executive power shall be vested in a Governor, who shall reside in the said Territory; he shall hold his office during the term of three years, unless sooner removed by the President of the United States; shall be Commander-in-Chief of the militia of the said Territory; shall have power to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, which shall be established by law; shall take care that the laws be faithfully executed; shall have power to grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; shall have power on extraordinary occasions to convene the General Assembly, and he shall *ex officio* be Superintendent of Indian Affairs.

SEC. 3. *And be it further enacted*, That there shall be a Secretary, whose commission shall continue in force for four years, unless sooner revoked by the President of the United States; he shall reside in the said Territory; it shall be his duty, under the direction of the Governor, to record and preserve all the proceedings and papers of the Executive, and all the acts of the General Assembly, and to transmit authentic copies of the same every six months to the President of the United States. In case of a vacancy of the office of Governor, the government of the said Territory shall be executed by the Secretary.

SEC. 4. *And be it further enacted*, That the Legislative power shall be vested in a General Assembly, which shall consist of the Governor, a Legislative Council and a House of Representatives. The General Assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said

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Territory, not repugnant to or inconsistent with the Constitution and laws of the United States; and shall have power to establish inferior courts, and to prescribe their jurisdiction and duties; to define the powers and duties of justices of the peace and other civil offices in the said Territory, and to regulate and fix the fees of office, and to ascertain and provide for payment of the same, and for all other services rendered to the said Territory, under the authority thereof. All bills having passed by a majority in the House of Representatives and by a majority in the Legislative Council, shall be referred to the Governor for his assent, but no bill or legislative act whatever shall be of any force without his approbation.

SEC. 5. *And be it further enacted*, That the Legislative Council shall consist of nine members, to continue in office five years, unless sooner removed by the President of the United States, any five of them shall be a quorum. The members of the Legislative Council shall be nominated and appointed in the manner following: as soon as Representatives shall be elected, they shall be convened by the Governor as hereafter prescribed, and, when met, shall nominate eighteen persons, residents in the said Territory one year preceding their nomination, holding no office of profit under the Territory or the United States, the office of justice of the peace excepted, and each possessing in his own right two hundred acres of land therein, and return the names to the President of the United States, nine of whom the President, by and with the advice and consent of the Senate, shall appoint and commission to serve as aforesaid; and when a vacancy shall happen in the Legislative Council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid for such vacancy, and return their names to the President of the United States, one of whom he, by and with the advice and consent of the Senate, shall appoint and commission for the residue of the term: and every five years, four months at least before the expiration of the term of service of the members of the Legislative Council, the House of Representatives shall nominate eighteen persons, qualified as aforesaid, and return their names to the President of the United States, nine of whom shall be appointed and commissioned as aforesaid, to serve as members of the Legislative Council five years, if not sooner removed. No person shall be a member of the Legislative Council who hath not attained to the age of twenty-five years.

SEC. 6. *And be it further enacted*, That the House of Representatives shall be composed of members elected every second year by the people of the said Territory, to serve for two years. For every five hundred free white male inhabitants there shall be one representative, and so on progressively, with the number of free white male inhabitants, shall the right of representation increase, until the number of the representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the General Assembly. No person

shall be eligible or qualified to be a representative, who shall not have attained to the age of twenty-one years, and who shall not have resided in the Territory one year next preceding the day of election, and who shall not be a freeholder within the county in which he may be elected; and no person holding any office under the United States or any office of profit under the Territory shall be a representative. In case of vacancy by death, resignation, removal, or otherwise, of a representative, the Governor shall issue a writ to the county, whenever a vacancy may be as aforesaid, to elect another person to serve the residue of the term. That all free white male citizens of the United States, above the age of twenty-one years, who have resided in said Territory twelve months next preceding an election, and who shall have paid a territorial or county tax, assessed at least six months previous thereto, shall be entitled to vote for representatives to the General Assembly of said Territory.

SEC. 7. *And be it further enacted*, That, in order to carry the same into operation, the Governor of the said Territory shall cause to be elected thirteen representatives, and for that purpose shall proceed, as circumstances may require, to lay off the parts of the said Territory to which the Indian title hath been extinguished, into convenient counties, on or before the first Monday in October next, and give notice thereof throughout the same, and shall appoint the most convenient time and place within each of the said counties for holding the elections, and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who shall have been elected. All subsequent elections shall be regulated by the General Assembly, and the number of representatives shall be determined, and the apportionment made, in the manner hereinbefore prescribed.

SEC. 8. *And be it further enacted*, That the representatives, elected as aforesaid, shall be convened, by the Governor, in the town of St. Louis, on the first Monday in December next; and the first General Assembly shall be convened by the Governor, as soon as may be convenient, at St. Louis, after the members of the Legislative Council shall be appointed and commissioned. The General Assembly shall meet once in each year, at St. Louis, and such meeting shall be on the first Monday in December annually, unless they shall by law appoint a different day. The Legislative Council and House of Representatives, when assembled, shall each choose a Speaker, and its other officers, and determine the rules of its proceedings. Each House shall sit on its own adjournments from day to day. Neither House shall during the session, without consent of the other, adjourn for more than two days, nor to any other place than that where the two Houses shall be sitting. The members of the General Assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at their respective Houses, and in going to and returning from the same;

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and for any speech or debate, in either House, they shall not be questioned in any other place.

SEC. 9. *And be it further enacted*, That all and every free white male person, who, on the twentieth day of December, in the year one thousand eight hundred and three, was an inhabitant of the Territory of Louisiana, and all free white male citizens of the United States, who, since the said twentieth day of December, in the year one thousand eight hundred and three, emigrated, or who hereafter may emigrate to the said Territory, being otherwise qualified according to the provisions of this act, shall be capable to hold any office of honor, trust, or profit, in the said Territory, under the United States, or under the said Territory, and to vote for members of the General Assembly and a delegate to Congress during the temporary government provided for by this act.

SEC. 10. *And be it further enacted*, That the judicial power shall be vested in a superior court, and in inferior courts and justices of the peace. The judges of the superior court and justices of the peace shall hold their offices for the term of four years, unless sooner removed; the superior court shall consist of three judges who shall reside in the said Territory, any two of whom shall constitute a court; the superior court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those that are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars; the said judges shall hold their courts at such times and places as shall be prescribed by the General Assembly. The sessions of the superior and inferior courts shall continue until all the business depending shall be disposed of, or for such time as shall be prescribed by the General Assembly. The superior and inferior courts shall respectively appoint their clerks, who shall be commissioned by the Governor, and shall hold their offices during the temporary government of the said Territory, unless sooner removed by the court.

SEC. 11. *And be it further enacted*, That all free male white persons of the age of twenty-one years, who shall have resided one year in the said Territory, and are not disqualified by any legal proceeding, shall be qualified to serve as grand or petit jurors in the courts of the said Territory; and they shall, until the General Assembly thereof shall otherwise direct, be selected in such manner as the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and least burdensome to the inhabitants of the said Territory.

SEC. 12. *And be it further enacted*, That the Governor, Secretary, and Judges, for the Territory of Missouri, authorized by this act, and all general officers of the militia, during the temporary government thereof, shall be appointed and commissioned by the President of the United States, by and with the advice and consent of the Senate; and the Governor, Secretary, and Judges, shall respectively receive for their services the compensations established by law, to be paid quarter yearly out of the Treasury of the United

States; the Governor, Secretary, Judges, members of the Legislative Council, members of the House of Representatives, justices of the peace, and all other officers, civil and military, before they enter on the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the Governor, before a Judge of the Supreme or a District Court of the United States, or a judge of the said Territory; the Secretary and Judges, before the Governor; the members of the Legislative Council and House of Representatives, before a judge of the said Territory; and the justices of the peace and all other officers before such person as the Governor shall appoint and direct.

SEC. 13. *And be it further enacted*, That the citizens of the said Territory entitled to vote for representatives to the General Assembly thereof, shall, at the time of electing their representatives to the said General Assembly, also elect one delegate from the said Territory to the Congress of the United States; and the delegate so elected shall possess the same powers, shall have the same privileges and compensation for his attendance in Congress, and for going to and returning from the same, as heretofore have been granted to and provided for a delegate from any Territory of the United States.

SEC. 14. *And be it further enacted*, That the people of the said Territory shall always be entitled to a proportionate representation in the General Assembly; to judicial proceedings according to the common law and the laws and usages in force in the said Territory; to the benefit of the writ of *habeas corpus*. In all criminal cases the trial shall be by jury of good and lawful men of the vicinage. All persons shall be bailable unless for capital offences where the proof shall be evident or the presumption great. All fines shall be moderate, and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land. If the public exigencies make it necessary for the common preservation to take the property of any person, or to demand his particular services, full compensation shall be made for the same. No *ex post facto* law, or law impairing the obligation of contracts, shall be made. No law shall be made which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or mode of worship, in all which he shall be free to maintain his own, and not burdened for those of another. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged and provided for from the public lands of the United States in the said Territory, in such manner as Congress may deem expedient.

SEC. 15. *And be it further enacted*, That the General Assembly shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulation

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Congress may find necessary to make for securing the title in the bone fide purchasers. No tax shall ever be imposed on lands the property of the United States. The lands of non-resident proprietors shall never be taxed higher than those of residents. The Mississippi and Missouri rivers, and the navigable waters flowing into them, and the carrying places between the same, shall be common highways and forever free to the people of said Territory and to the citizens of the United States, without any tax, duty or impost therefor.

SEC. 16. *And be it further enacted*, That the laws and regulations in force in the Territory of Louisiana, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed, by the General Assembly. And it is hereby declared, that this act shall not be construed to vacate the commission of any officer in the said Territory, acting under the authority of the United States, but that every such commission shall be and continue in full force as if this act had not been made. And so much of an act, entitled "An act further providing for the government of the Territory of Louisiana," approved on the third day of March, one thousand eight hundred and five, and so much of an act, entitled "An act for erecting Louisiana into two Territories and providing for the temporary government thereof," approved the twenty-sixth of March, one thousand eight hundred and four, as is repugnant to this act, shall, from and after the first Monday in December next, be repealed. On which first Monday in December next this act shall commence and have full force: *Provided*, so much of it as requires the Governor of said Territory to perform certain duties, previous to the said first Monday in December next, shall be in force from the passage thereof.

Approved, June 4, 1812.

An Act to extend the time for exporting, with privilege of drawback, goods, wares, and merchandise, entitled thereto by law.

Be it enacted, &c., That the time during which the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States, for a limited time," shall continue in force, shall not be computed as making part of the term of twelve calendar months, during which goods, wares, or merchandise, imported into the United States, must be re-exported, in order to be entitled to a drawback of the duties paid on the importation thereof.

Approved, June 10, 1812.

An Act supplemental to an act, entitled "An act for dividing the Indiana Territory into two separate Governments."

Be it enacted, &c., That it shall and may be lawful for any person or persons in whose favor there now are, or hereafter may be rendered, any final judgment or judgments, decree or decrees, in the general court or court of chancery of the Territory aforesaid, upon any suit or suits, pleas,

process, or proceedings, which were pending in the said courts on the first day of March, one thousand eight hundred and nine, to sue out of the office of the clerk of the general court or court of chancery, aforesaid, without delay, any writ or writs of execution, upon the judgments or decrees aforesaid, and to cause the said judgments or decrees to be fully executed by the same officers, and in the same manner as if the Indiana Territory had remained undivided.

Approved, June 10, 1812.

An Act making further provision for settling the claims to land in the Territory of Missouri.

Be it enacted, &c., That the rights, titles, and claims, to town or village lots, out lots, common field lots, and commons, in, adjoining, and belonging to the several towns or villages of Portage des Sioux, St. Charles, St. Louis, St. Ferdinand, Villa a Robert, Carondelet, St. Genevieve, New Madrid, New Bourbon, Little Prairie, and Arkansas, in the Territory of Missouri, which lots have been inhabited, cultivated, or possessed, prior to the twentieth day of December, one thousand eight hundred and three, shall be and the same are hereby confirmed to the inhabitants of the respective towns or villages aforesaid, according to their several right or rights in common thereto: *Provided*, That nothing herein contained shall be construed to affect the rights of any persons claiming the said lands, or any part thereof, whose claims have been confirmed by the Board of Commissioners for adjusting and settling claims to land in the said Territory. And it shall be the duty of the principal deputy surveyor for the said Territory, as soon as may be, to survey, or cause to be surveyed and marked, (where the same has not already been done according to law,) the out boundary lines of the said several towns, or villages, so as to include the out lots, common field lots, and commons, thereto respectively belonging. And he shall make out plats of the surveys, which he shall transmit to the Surveyor General, who shall forward copies of the said plats to the Commissioner of the General Land Office, and to the recorder of land titles; the expense of surveying the said out boundary lines shall be paid by the United States, out of any moneys appropriated for surveying the public lands: *Provided*, That the whole expense shall not exceed three dollars for every mile that shall be actually surveyed and marked.

SEC. 2. *And be it further enacted*, That all town or village lots, out lots, or common field lots, included in such surveys, which are not rightfully owned or claimed by any private individuals, or held as commons belonging to such towns or villages, or that the President of the United States may not think proper to reserve for military purposes, shall be, and the same are hereby, reserved for the support of schools in the respective towns or villages aforesaid: *Provided*, That the whole quantity of land contained in the lots reserved for the support of schools, in any one town or village, shall not exceed one-twentieth part of the

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whole lands included in the general survey of such town or village.

SEC. 3. *And be it further enacted*, That every claim to a donation of lands in the said Territory, in virtue of settlement and cultivation, which is embraced by a report of the Commissioners, transmitted to the Secretary of the Treasury, and which, by the said report, shall appear not to have been confirmed, merely because permission, by the proper Spanish officer, to settle, has not been duly proven; or because the tract claimed, although inhabited was not cultivated on the twentieth of December, one thousand eight hundred and three, or not to have been confirmed on account of both said causes; the same shall be confirmed, in case it shall appear that the tract so claimed was inhabited by the claimant or some one for his use prior to the twentieth day of December, one thousand eight hundred and three as aforesaid, and cultivated in eight months thereafter, subject, however, to every other limitation and restriction prescribed by former laws in respect to such claims; and in all cases where it shall appear, by the said report, or other records of the board, that claims to land have not been confirmed merely on the ground that the claim was for a greater quantity than eight hundred arpens, French measure, every such claim, to the extent of eight hundred arpens, shall be confirmed.

SEC. 4. *And be it further enacted*, That the recorder of land titles for the said Territory shall, without delay, make an extract from the books of the said Board of Commissioners of all the claims to land which are, by the preceding section, directed to be confirmed, a copy of which he shall transmit to the Commissioner of the General Land Office; and he shall furnish the principal deputy surveyor with a proper description of the tracts so to be confirmed, wherein the quantity, locality, boundaries and connexion, when practicable, with each other, and those tracts that have been confirmed by the Board of Commissioners, shall be stated. And whenever plats of the surveys, as hereinafter directed, shall have been returned to the said recorder's office, it shall be his duty to issue for each tract to be confirmed, as aforesaid, to the person entitled thereto, a certificate in favor of the party, which shall be transmitted to the Commissioner of the General Land Office; and if it shall appear to the satisfaction of the said Commissioner that such certificate has been fairly obtained, according to the true intent and meaning of this act, then, in that case, patents shall be granted in like manner as is provided by law for the other lands of the United States.

SEC. 5. *And be it further enacted*, That the principal deputy surveyor shall survey, under the direction of the Surveyor General, so much of the lands in the said Territory, to which the Indian title has been extinguished, as the President of the United States may direct, into townships of six miles square, by lines running due north and south, and others crossing these at right angles; and also the lands, the claims to which are directed to be confirmed, by the third section of this

act; and the lands, the claims to which have been confirmed by the Board of Commissioners, where the same has not already been surveyed under the authority of the United States. And the said principal deputy surveyor shall make out a general and connected plat of all the surveys directed by this act to be made, or which have already been made under the authority of the United States, which he shall transmit to the Surveyor General, who shall transmit copies of the said plat or plats to the recorder of land titles and the Commissioner of the General Land Office. The expense of surveying shall be paid by the United States: *Provided*, The same shall not in the whole exceed three dollars a mile for every mile that shall be actually surveyed and marked.

SEC. 6. *And be it further enacted*, That in all cases where by reason of the indefinite description of the local situation and boundaries of any tract, the claim to which has been confirmed by the commissioners, the same cannot be ascertained by the principal deputy surveyor, it shall be the duty of the recorder of land titles, on the application of the said principal deputy, to furnish such precise description thereof as can be obtained from the records in his office and the books of the said Board of Commissioners; and, for the purpose of the more correctly ascertaining the locality and boundaries of any such tracts, the said principal deputy shall have free access at all reasonable hours to the books and papers in the recorder's office relating to land claims, and be permitted to take copies, or such extracts therefrom, or any of them, as he may think proper and necessary for the discharge of his duty in executing such surveys. And the said recorder shall be allowed twenty-five cents for the description of each tract which he shall furnish to the principal deputy surveyor as aforesaid.

SEC. 7. *And be it further enacted*, That every person or persons claiming lands in the Territory of Missouri, who are actual settlers on the lands which they claim, and whose claims have not been heretofore filed with the recorder of land titles for the said Territory, shall be allowed until the first day of December next to deliver notices in writing, and the written evidences of their claims to the said recorder; and the notices and evidences so delivered, within the time limited by this act, shall be recorded in the same manner, and on payment of the same fees, as if the same had been delivered before the first day of July, one thousand eight hundred and eight; but the rights of such persons as shall neglect so doing within the time limited by this act, shall, so far as they are derived from, or founded on, any act of Congress, ever after be barred and become void, and the evidences of their claims never after admitted as evidence in any court of the United States, against any grant derived from the United States.

SEC. 8. *And be it further enacted*, That the said recorder of land titles shall have the same powers and perform the same duties in relation to the claims thus filed before the first day of December next, and the claims which have been

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heretofore filed, but not decided on by the commissioners, as the Board of Commissioners had by former laws respecting claims, filed prior to the first day of July, one thousand eight hundred and eight, except that all of his decisions shall be subject to the revision of Congress. And it shall be the duty of the said recorder to make, to the Commissioner of the General Land Office, a report of all the claims which shall be thus filed before the first day of December next, and of the claims which have been already filed, but not decided on by the said commissioners, together with the substance of the evidence in support thereof, with his opinion, and such remarks as he may think proper; which report, together with a list of the claims which, in the opinion of the said recorder, ought to be confirmed, shall be laid by the Commissioner of the General Land Office before Congress, at their next session, for their determination thereon. The said recorder, in addition to his salary as fixed by law, shall be allowed fifty cents for each claim which has been filed, but not decided on by the commissioners, or which shall be filed according to this act, and on which he shall make a decision, whether such decision be in favor of, or against the claim, and a further allowance of five hundred dollars, which shall be paid after he shall have made his report to the Commissioner of the General Land Office; which allowance of fifty cents, for each claim decided on, and five hundred dollars on the completion of the business, shall be in full compensation for his services, including clerk-hire, respecting the claims to be decided on according to this act.

Approved, June 13, 1812.

An Act authorizing the remission of forfeited recognisances within the District of Columbia.

Be it enacted, &c. That the President of the United States shall have the power to grant remissions of the forfeitures of all recognisances acknowledged and taken, or to be acknowledged and taken, before any court, judge, justice of the peace, or other magistrate, within the District of Columbia, either in the course of any criminal prosecution, or for surety of the peace.

Approved, June 17, 1812.

An Act authorizing the cutting and making a canal from the river Potomac around the west end of the dam or causeway from Mason's island, and for other purposes.

Be it enacted, &c. That the common council of Alexandria shall have power to appoint one or more agents to lay out and superintend the cutting and making a canal from the river Potomac around the west end of the dam or causeway from Mason's island to the western shore of the said river, into that arm of said river which passes around the western side of said island, in the manner and under the restrictions hereinafter directed; and, from the river Potomac along the west side of Alexander's peninsula, into said river, below the lower end of said peninsula, and through any other points of land between Ma-

son's island and Alexandria, which may improve the boat navigation of said river; and, also, that the said common council of Alexandria have power to levy a tax upon the real property of the said town, and upon the personal property and the occupations of the citizens thereof, for the purpose of defraying the expense of cutting and making said canals, and, afterwards, for continuing the same in good repair; and for constructing, and keeping in repair, and attending, at all times during high water, the guard-gates, or lock, hereinafter directed to be constructed in the canal, authorized to be cut as aforesaid, around the west end of the causeway from Mason's island, and of erecting the bridges hereinafter mentioned, and for keeping the same in repair.

SEC. 2. *And be it further enacted,* That it shall and may be lawful for the said agent or agents, or a majority of them, to agree with the owners of any land, through which either of the said canals is intended to pass, for the purchase thereof, and, in case of disagreement, or, in case the owner thereof shall be a feme covert, under age, non compos, or out of the District, on application to one of the judges of the circuit court of the District of Columbia, the said judge shall issue his warrant, directed to the Marshal of the District, to summon and empanel twelve able and discreet freeholders of the vicinage, noways related to either party, to meet on some certain place, on the ground through which the said canal is proposed to be conducted, and on a certain day, to be expressed in the warrant, of which reasonable notice shall be given by the marshal to the proprietors or tenants of said ground; and the marshal, upon receiving the said warrant, shall, forthwith, summon the said jury, and, when met, shall administer an oath or affirmation to every jurymen that he will, faithfully, justly, and impartially value the land, not exceeding the width of thirty feet, and all damages the owner thereof will sustain by cutting the canal through such land, according to the best of his skill and judgment; and the inquisition thereupon taken shall be signed by the marshal and the jurymen present, and returned by the marshal to the clerk of the court of the county of Alexandria to be by him recorded; and, upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the agent or agents to the owner of the land, or his or her legal representatives; and, on payment thereof, said canal may be cut and made through said lands, and said described land and canal shall become an open highway forever; *Provided,* They, nor the waters of the said canals, or either of them, shall not be used for any other purpose than navigation, but by the consent of the owner of the lands through which said canal may pass.

SEC. 3. *And be it further enacted,* That the canal authorized to be cut as aforesaid around the west end of the causeway, and not nearer than one hundred feet to the land, and of the

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lower side of the wharf, formerly used as a ferry wharf, from Mason's island, shall commence at some point on the western shore of the Potomac river, above a high rock situated about thirty yards above the said causeway, thence to proceed, leaving the said high rock between said canal and the river, and passing at a distance of at least twenty feet from the original walls of said causeway, shall enter said river at the distance of at least twenty and not exceeding one hundred yards below said causeway; that said canal shall not be narrower than twelve feet, nor wider than twenty feet at the bottom, and shall not contain less than two feet, nor more than four feet water in depth at common low tide, and shall be substantially walled with stone on both sides throughout; and if, on excavating the site for the said canal at the proper depth, it does not prove to be a bottom of solid rock, then the same shall be securely paved at the bottom with heavy flat stone, well laid, for the whole or such part as may not be a bottom of natural rock. And the said canal shall be further secured by wing walls and puddle on the river side, to prevent the water from undermining the causeway walls. There shall also be erected in said canal for the protection of said causeway, during the times of high freshes, two substantial guard gates, as high as the parapet wall of said causeway, one at least twenty feet above said causeway, and the other at a suitable distance below said causeway, which gates shall be connected by walls with said parapet wall, and of equal height, so as to form a complete lock, to be firmly secured at the bottom, and with the usual apparatus for opening and shutting the same, to facilitate the passage of boats; and it shall be the duty of the said common council of Alexandria to provide, that always during the times of high freshes aforesaid, a careful person shall attend said gates to keep them shut, at which times they shall never be opened except for the passage of boats, and forever to keep the said lock and the said canal, in all its walls, wings, pavements, gates, and other parts, in complete repair; and if the said causeway should at any time be injured in consequence of the said common council having failed to take the precautionary measures aforesaid, and to keep every part of the work done by them in good repair, the said common council shall be liable to the corporation of Georgetown for all damages said corporation may sustain by such injury, to be assessed by a jury in an action on the case, to be brought by said corporation against said common council; and it shall also be the duty of the said common council of Alexandria to erect over said canal, where it shall cross the turnpike road which leads from said causeway to Alexandria, a substantial stone bridge, at least twenty feet wide, and to keep the same always in repair.

SEC. 4. *And be it further enacted*, That if any other of the said canals shall be cut across any public highway, that a good and sufficient bridge shall in such place be made over the canal, at least twenty feet wide, and kept in constant repair by the said common council of Alexandria.

SEC. 5. *And be it further enacted*, That the aforesaid canal around the west end of the causeway aforesaid, shall be commenced within two years, and shall be completed in the manner herein before provided, within five years from this time, otherwise the authority herein given to cut said canal shall cease and determine.

SEC. 6. *And be it further enacted*, That in case of the death, removal, or refusal to act, of any agent, the common council of Alexandria shall appoint another, and shall, from time to time, supply vacancies that may occur, and that in all cases a majority of the agents shall be sufficient to act.

SEC. 7. *And be it further enacted*, That it shall not be lawful for any boat or boats to pass the said canal around the western end of the said causeway, until the commissioners, or a majority of them, hereinafter named, shall have certified under their hands, that, according to the best of their skill and judgments, the said land is located and cut, and the walls, wings, lock, and gates are erected and the pavement laid, and the whole work executed and completed, in every respect conformably to the directions, true intent and meaning of this act, and until the certificate signed as aforesaid shall be returned and filed in the office of the court of the county of Alexandria.

SEC. 8. *And be it further enacted*, That so soon as the common council of Alexandria shall notify the President of the United States, that the said canal round the western end of the causeway aforesaid is completed, and ready for the view and inspection of the commissioners, then it shall and may be lawful for the President of the United States, and he is hereby required, to appoint without delay three disinterested and skilful persons as commissioners, to go upon, view, and inspect, the canal and premises aforesaid, and thereupon, if in their judgments, and not otherwise, the said canal be in all respects executed and completed as herein directed, to certify the same, and cause their certificate to be returned and filed in manner aforesaid. And that the said commissioners for so doing shall be entitled to a reasonable compensation, to be paid by the common council of Alexandria.

SEC. 9. *And be it further enacted*, That the earth or other materials, taken from the bed of the said canal, shall not be deposited to the injury of the owners of the lands through which the said canal may pass.

Approved, June 17, 1812.

An Act declaring war between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their Territories.

Be it enacted, &c., That war be and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their Territories; and that the President of the United States is hereby authorized

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to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects, of the Government of the said United Kingdom of Great Britain and Ireland, and the subjects thereof.

Approved, June 18, 1812.

An Act to amend the laws within the District of Columbia.

Be it enacted, &c., That all promissory notes for the payment of money hereafter drawn and endorsed, or transferred, within the county of Alexandria, in the District of Columbia, shall be governed by, and subject to, the same laws as are now in force and applicable to such notes, drawn, endorsed, or transferred, within the county of Washington, in the said District; and the rights, remedies, and responsibility, of the person or persons hereafter holding, drawing, endorsing, or transferring, any such promissory note, as aforesaid, shall be the same within the county of Alexandria as they now are within the said county of Washington; and all laws now in force within the said county of Alexandria, contrary to this provision, are hereby repealed.

SEC. 2. *And be it further enacted,* That it shall be lawful for any creditor of any insolvent debtor, who shall hereafter apply for relief under the act of Congress, passed on the third day of March, one thousand eight hundred and three, entitled "An act for the relief of insolvent debtors within the District of Columbia," to make the same allegations in writing, at any time before the oath of insolvency shall be administered, as are now permitted by the seventh section of said act, which allegation shall be made before the judge by whom the oath of insolvency is proposed to be administered, and a copy of the same, together with a notification from such judge of the time and place at which the truth of such allegation is to be tried, shall be forthwith served on such insolvent, and any one judge of the said District shall have the same power and authority to examine the debtor, or any other person, on oath, touching the substance of the said allegation, or to direct an issue or issues to be tried before him, in a summary way, to determine the truth of the same, as are now vested in the court of the said District by the seventh section of the said act; and if, upon the answer to the said interrogatories, or upon the trial of the issue or issues, such debtor shall be found guilty of any fraud or deceit towards his creditors, or of having lost by gaming, within twelve months next preceding his application for relief, more than three hundred dollars, or of having within that time assigned or conveyed any part of his property, rights, or credits, with an intent to give a preference to any creditor or creditors, or any surety, he shall not be permitted to take the said oath, and shall be precluded from any benefit under the said act;

and in case any such debtor, or any other person, shall, at any time thereafter, be convicted of swearing or affirming wilfully and corruptly to any matter or thing touching the inquiry aforesaid, the person so offending shall suffer as in the case of wilful and corrupt perjury; and upon such conviction of the debtor, or any other person testifying for him, such debtor shall be forever precluded from any benefit under the said act; but nothing herein contained shall be considered as in any manner impairing or repealing the provisions of the seventh section of the said act.

SEC. 3. *And be it further enacted,* That the benefit of the prison rules shall not be allowed to any debtor, hereafter taken or charged in execution within the said District, for more than one year from the date of the bond given by him or her for keeping within the said rules; after the expiration of which time, if the person so taken or charged in execution shall not be discharged by due course of law, it shall be the duty of the Marshal or other officer to whose custody such person was committed, to recommit him or her to close jail and confinement, there to remain until the debt for which he or she was taken or charged in execution shall be paid, or until he or she shall be discharged under the act of Congress for the relief of insolvent debtors within the District of Columbia.

SEC. 4. *And be it further enacted,* That real estate in the county of Alexandria shall be subject to the payment of debts hereafter contracted, in the same manner, to the same extent, and by the same process, as real estate in the county of Washington is subject to the payment of debts by the laws now in force in the said county of Washington, the operation of which laws is hereby extended to real estate in the said county of Alexandria for the satisfaction of debts hereafter contracted.

SEC. 5. *And be it further enacted,* That on any judgment or decree rendered, or hereafter to be rendered, by the said court, in either of the said counties, any writ of execution, which shall thereupon issue, may be served and carried into effect in either county in which the person or property, liable to the said judgment or decree, may be found; but the writ of execution shall be returnable only to the court wherein such judgment or decree was rendered and from whence it issued; and such execution shall have the same force and effect as if it had issued from the county where such person or his property may be found.

SEC. 6. *And be it further enacted,* That upon all judgments rendered on the common law side of the circuit court of said District, in actions founded on contracts, interest at the rate of six per centum per annum shall be awarded on the principal sum due, until the said judgments shall be satisfied, and the amount which is to bear interest, and the time from which it is to be paid, shall be ascertained by the verdict of the jury sworn in the cause.

SEC. 7. *And be it further enacted,* That when any injunction shall hereafter be obtained to stay

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proceedings on any judgment rendered for money in the circuit court of the said District, and such injunction shall be dissolved wholly or in part, damages, at the rate of ten per centum per annum from the time the injunction shall be awarded until dissolution, shall be paid by the party on whose behalf such injunction was obtained on such sum as appears to be due, including costs, and execution on the judgment enjoined shall be issued for the same; and in cases where a forthcoming bond shall have been executed by the complainant, and no judgment shall have been rendered thereupon, the court in which execution shall be awarded shall direct the said damages to be included in the judgment, which damages shall, in all cases, be in full satisfaction of interest for the time for which they shall be allowed: *Provided*, That when the injunction shall be granted to obtain a discovery, or any part of the judgment shall remain enjoined, the court may, if it appear just, direct that such damages shall not be paid, or only such proportion thereof as they may deem expedient.

SEC. 8. *And be it further enacted*, That in any civil suit or action at law, or any criminal or penal prosecution by information or indictment, now depending, or hereafter to be commenced, the court, upon a suggestion in writing by any of the parties thereto, supported by the oath or affirmation that a fair and impartial trial cannot be had in the county where such suit or action is depending, may order the same suit or action to be removed into the court holden in the other county in the said District; and the same shall be prosecuted and tried according to law, and the judgment carried into full effect; and it shall be the duty of the clerk of the one county to transmit to the clerk of the other county a copy of the record of the proceedings, and all the original papers filed in his office in the suit or action; and in like manner in any criminal or penal prosecution aforesaid, by information or indictment, if the Attorney for the United States for the District of Columbia shall suggest in writing, under his signature, to the court of the county, before whom any such information or indictment is or may be depending, that the United States cannot have a fair and impartial trial in such county, the court may order the trial to be prosecuted and had in the other county, for which purpose the proceedings and all original papers filed in said cause shall be transmitted to the court of such other county, where the same shall be tried and prosecuted to final judgment and execution.

SEC. 9. *And be it further enacted*, That hereafter it shall be lawful for any inhabitant or inhabitants in either of the said counties owning and possessing any slave or slaves therein, to remove the same from one county into the other, and to exercise freely and fully all the rights of property in and over the said slave or slaves therein, which would be exercised over him, her, or them, in the county from whence the removal was made, anything in any legislative act in force at this time, in either of the said counties, to the contrary notwithstanding.

SEC. 10. *And be it further enacted*, That, in paying the debts of any deceased person, the executor or administrator, who shall hereafter qualify and obtain letters testamentary, or of administration in the orphans' court in the county of Alexandria, shall observe the following rules: Funeral expenses shall be first paid, next judgments and decrees against the deceased obtained in his lifetime in the said District shall be wholly discharged before any other claims; after such funeral expenses, judgments, and decrees, within the said District, shall be satisfied, all other just claims shall be admitted to payment on an equal footing, without priority or preference, and in equal proportion; if there be not sufficient to discharge all such judgments and decrees, a proportionable dividend shall be made among the judgment and decree creditors aforesaid. In no case shall an executor or administrator aforesaid be allowed to retain for his own claim against the deceased, unless the same be passed by the orphans' court, and when passed it shall stand on an equal footing with other claims of like nature; and it shall be the duty of every executor or administrator aforesaid to give in a claim against himself, and no executor or administrator shall discharge any claim against the deceased, otherwise than at his own risk, unless the same shall be first passed by the orphans' court granting the administration.

SEC. 11. *And be it further enacted*, That it shall be lawful for any person or persons to whom letters testamentary or of administration have been or may hereafter be granted by the proper authority in any of the United States or the Territories thereof, to maintain any suit or action, and to prosecute and recover any claim in the District of Columbia, in the same manner as if the letters testamentary or of administration had been granted to such person or persons by the proper authority in the said District; and the letters testamentary or of administration, or a copy thereof, certified under the seal of the authority granting the same, shall be sufficient evidence to prove the granting thereof, and that the person or persons, as the case may be, has or have administration.

SEC. 12. *And be it further enacted*, That instead of the sessions as heretofore by law directed, the courts for the county of Alexandria shall, after this act goes into operation, commence on the third Monday in April, and on the fourth Monday in November in every year; and all cases, motions, process, causes, matters and things, pending in or returnable to the sessions as heretofore fixed by law, shall be continued and returned respectively to the sessions of the said court hereby appointed to be holden.

SEC. 13. *And be it further enacted*, That it shall be the duty of the constables of the county of Washington in the District of Columbia, upon a *capias ad satisfaciendum* issuing out of the clerk's office of the said county, in conformity with the provisions of the act entitled "An act concerning the District of Columbia," to take the defendant into custody, on his failure to pay the debt and costs in such *capias ad satisfaciendum*.

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dum mentioned, forthwith, upon the application of the plaintiff, to deliver into the prison of the said county such defendant, to be held in the said prison by the marshal of the District of Columbia until he shall be released by due course of law.

SEC. 14. *And be it further enacted*, That the said marshal shall be entitled to the same fee for commitment and releasement of said debtor committed as aforesaid, and the same allowance for his maintenance, and to be paid in the same manner, as are already provided by law.

SEC. 15. *And be it further enacted*, That upon a *fiery facias* issuing out of the office of the clerk of the county of Washington, upon the judgment of a magistrate, the plaintiff upon such *fiery facias* shall be entitled to have his execution against the goods and chattels, lands and tenements, rights and credits, of the defendant.

SEC. 16. *And be it further enacted*, That this act shall commence and be in force from and after the first day of September next.

Approved, June 24, 1812.

An Act concerning letters of marque, prizes, and prize goods.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized and empowered to revoke and annul at pleasure all letters of marque and reprisal which he shall or may at any time grant pursuant to an act entitled "An act declaring war between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their Territories."

SEC. 2. *And be it further enacted*, That all persons applying for letters of marque and reprisal, pursuant to the act aforesaid, shall state in writing the name and a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, and the intended number of the crew; which statement shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions, to be by him transmitted to the Secretary of State.

SEC. 3. *And be it further enacted*, That before any commission of letters of marque and reprisal shall be issued as aforesaid, the owner or owners of the ship or vessel for which the same shall be requested, and the commander thereof, for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of five thousand dollars; or if such vessel be provided with more than one hundred and fifty men, then in the penal sum of ten thousand dollars; with condition that the owners, officers, and crew, who shall be employed on board such commissioned vessel, shall and will observe the treaties and laws of the United States, and the instructions which shall be given them according to law for the regulation of their conduct; and will satisfy all

damages and injuries which shall be done or committed contrary to the tenor thereof by such vessel during her commission, and to deliver up the same when revoked by the President of the United States.

SEC. 4. *And be it further enacted*, That all captures and prizes of vessels and property shall be forfeited and shall accrue to the owners, officers, and crews of the vessels by whom such prizes shall be made; and, on due condemnation had, shall be distributed according to any written agreement which shall be made between them; and if there be no such agreement, then one moiety to the owners, and the other moiety to the officers and crew, to be distributed between the officers and crew as nearly as may be, according to the rules prescribed for the distribution of prize money, by the act entitled "An act for the better government of the navy of the United States," passed the twenty-third day of April, one thousand eight hundred.

SEC. 5. *And be it further enacted*, That all vessels, goods, and effects, the property of any citizen of the United States, or of persons resident within and under the protection of the United States, or of persons permanently resident within and under the protection of any foreign Prince, Government, or State, in amity with the United States, which shall have been captured by the enemy, and which shall be recaptured by vessels commissioned as aforesaid, shall be restored to the lawful owners, upon payment by them, respectively, of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned, or by the decree of any court having competent jurisdiction, according to the nature of each case, agreeably to the provisions heretofore established by law. And such salvage shall be distributed among the owners, officers, and crews of the vessels commissioned as aforesaid, and making such recaptures, according to any written agreement which shall be between them; and in case of no such agreement, then in the same manner and upon the same principles hereinbefore provided in case of capture.

SEC. 6. *And be it further enacted*, That before breaking bulk of any vessel which shall be captured as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such captured vessel, goods, or effects, shall be brought into some port of the United States, or into some port of a nation in amity with the United States, and shall be proceeded against, before a competent tribunal, and after condemnation and forfeiture thereof, shall belong to the owners and captors thereof, and be distributed as aforesaid: And in the case of all captured vessels, goods, and effects, which shall be brought within the jurisdiction of the United States, the district courts of the United States shall have exclusive original cognizance thereof, as in civil cases of admiralty and maritime jurisdiction; and the said courts, or the courts, being courts of the United States, into which such cases shall be removed, and in which they shall be finally decided, shall and may

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decree restitution, in whole or in part, when the capture shall have been made without just cause. And if made without probable cause, or otherwise unreasonably, may order and decree damages and costs to the party injured, and for which the owners and commanders of the vessels making such captures, and also the vessels shall be liable.

SEC. 7. *And be it further enacted*, That all prisoners found on board any captured vessels, or on board any recaptured vessel, shall be reported to the collector of the port in the United States in which they shall first arrive, and shall be delivered into the custody of the marshal of the district, or some civil or military officer of the United States, or of any State in or near such port, who shall take charge of their safe-keeping and support, at the expense of the United States.

SEC. 8. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to establish and order suitable instructions for the better governing and directing the conduct of the vessels, so commissioned, their officers and crews, copies of which shall be delivered by the collector of the customs to the commanders when they shall give bond as aforesaid.

SEC. 9. *And be it further enacted*, That a bounty shall be paid by the United States of twenty dollars for each person on board any armed ship or vessel, belonging to the enemy, at the commencement of an engagement, which shall be burned, sunk, or destroyed, by any vessel commissioned as aforesaid, which shall be of equal or inferior force, the same to be divided as in other cases of prize money.

SEC. 10. *And be it further enacted*, That the commanding officer of every vessel having a commission, or letters of marque and reprisal, during the present hostilities between the United States and Great Britain, shall keep a regular journal, containing a true and exact account of his daily transactions and proceedings with such vessel and the crew thereof; the ports and places he shall put into or cast anchor in; the time of his stay there and the cause thereof; the prizes he shall take; the nature and probable value of such prizes; the times and places when and where taken, and how and in what manner he shall dispose of the same; the ships or vessels he shall fall in with; the times and places when and where he shall meet with them, and his observations and remarks thereon; also, of whatever else shall occur to him or any of his officers or mariners, or be discovered and found out by examination or conference with any mariners or passengers of, or in any other ships and vessels, or by any other ways or means whatsoever, touching or concerning the fleets, vessels, and forces of the enemy, their posts and places of station and destination, strength, numbers, intents, and designs. And such commanding officer shall, immediately on his arrival in any port of the United States or the Territories thereof, from or during the continuance of any voyage or cruise, produce his commission for such vessel, and de-

liver up such journal so kept as aforesaid, signed with his proper name and handwriting, to the collector or other chief officer of the customs, at or nearest to such port; the truth of which journal shall be verified by the oath of the commanding officer for the time being, and such collector or other chief officer of the customs shall, immediately on the arrival of such vessel, order the proper officer of the customs to go on board and take an account of the officers and men, the number and nature of the guns, and whatever else shall occur to him, on examination, material to be known; and no such vessel shall be permitted to sail out of port again, after such arrival, until such journal shall have been delivered up, and a certificate obtained, under the hand of such collector or other chief officer of the customs, that she is manned and armed according to her commission; and upon delivery of such certificate, any former certificate of a like nature, which shall have been obtained by the commander of such vessel, shall be delivered up.

SEC. 11. *And be it further enacted*, That captains and commanders of vessels having letters of marque and reprisal, in case of falling in with any of the vessels of war or revenue of the United States, shall produce to the commanding officer of such vessels their journals, commissions, and certificates as aforesaid; and the commanding officer of such ships of war or revenue shall make, respectively, a memorandum in such journal of the day on which it was so produced to him, and shall subscribe his name to it; and in case such vessel, having letters of marque as aforesaid, shall put into any foreign port where there is an American Consul or other public agent of the United States, the commander shall produce his journal, commission, and certificate aforesaid, to such Consul or agent, who may go on board and number the officers and crew, and examine the guns, and if the same shall not correspond with the commission and certificate respectively, such Consul or agent shall forthwith communicate the same to the Secretary of the Navy.

SEC. 12. *And be it further enacted*, That the commanders of vessels having letters of marque and reprisal, as aforesaid, neglecting to keep a journal, as aforesaid, or willfully making fraudulent entries therein, or obliterating any material transactions therein, where the interest of the United States is in any manner concerned, or refusing to produce such journal, commission, or certificate, pursuant to the preceding section of this act, then, and in such cases, the commissions or letters of marque and reprisal of such vessels, shall be liable to be revoked; and such commanders, respectively, shall forfeit, for every such offence, the sum of one thousand dollars, one moiety thereof to the use of the United States, and the other to the informer.

SEC. 13. *And be it further enacted*, That the owners or commanders of vessels having letters of marque and reprisal, as aforesaid, who shall violate any of the acts of Congress for the collection of the revenue of the United States, and for

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the prevention of smuggling, shall forfeit the commission or letters of marque and reprisal, and they, and the vessels owned or commanded by them, shall be liable to all the penalties and forfeitures attaching to merchant vessels in like cases.

SEC. 14. *And be it further enacted*, That so much of any act or acts as prohibits the importation of goods, wares, and merchandise, of the growth, produce, and manufacture, of the dominions, colonies, and dependencies, of the United Kingdom of Great Britain and Ireland, or of goods, wares, and merchandise, imported from the dominions, colonies, and dependencies, of the United Kingdom of Great Britain and Ireland, be, and the same is hereby, repealed, so far as the same may prohibit the importation or introduction into the United States and their Territories of such goods, wares, and merchandise, as may be captured from the enemy, and made good and lawful prize of war, either by vessels having letters of marque and reprisal, or by the vessels of war and revenue of the United States. And all such goods, wares, and merchandise, when imported or brought into the United States, or their Territories, shall pay the same duties, to be secured and collected in the same manner, and under the same regulations, as the like goods, wares, and merchandise, if imported in vessels of the United States from any foreign port or place, in the ordinary course of trade, are now, or may at the time be, liable to pay.

SEC. 15. *And be it further enacted*, That all offences committed by any officer or seaman on board any such vessel, having letters of marque and reprisal, during the present hostilities against Great Britain, shall be tried and punished in such manner as the like offences are or may be tried and punished when committed by any person belonging to the public ships of war of the United States: *Provided, always*, That all offenders who shall be accused of such crimes as are cognizable by a court martial, shall be confined on board the vessel in which such offence is alleged to have been committed, until her arrival at some port in the United States, or their Territories; or until she shall meet with one or more of the public armed vessels of the United States abroad, the officers whereof shall be sufficient to make a court martial for the trial of the accused; and upon application made by the commander of such vessel, on board of which the offence is alleged to have been committed, to the Secretary of the Navy, or to the commander or senior officer of the ship or ships of war of the United States, abroad, as aforesaid, the Secretary of the Navy, or such commander or officer, is hereby authorized to order a court martial of the officers of the Navy of the United States, for the trial of the accused, who shall be tried by the said court.

SEC. 16. *And be it further enacted*, That an act, entitled "An act laying an embargo on all the ships and vessels in the ports and harbors of the United States, for a limited time," passed the fourth day of April, one thousand eight hundred and twelve; and an act, entitled "An act to pro-

hibit the exportation of specie, goods, wares, and merchandise, for a limited time," passed April the fourteenth, one thousand eight hundred and twelve, so far as they relate to ships and vessels having commissions or letters of marque and reprisal, or sailing under the same, be and they hereby are respectively repealed.

SEC. 17. *And be it further enacted*, That two per centum on the net amount (after deducting all charges and expenditures) of the prize money arising from captured vessels and cargoes, and on the net amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States, shall be secured and paid over to the collector, or other chief officer, of the customs, at the port or place in the United States, at which such captured or recaptured vessels may arrive; or to the Consul, or other public agent, of the United States, residing at the port or place, not within the United States, at which such captured or recaptured vessels may arrive. And the moneys arising therefrom shall be held, and hereby is pledged by the Government of the United States, as a fund for the support and maintenance of the widows and orphans of such persons as may be slain; and for the support and maintenance of such persons as may be wounded and disabled on board of the private armed vessels of the United States, in any engagement with the enemy, to be assigned and distributed in such manner as shall hereafter by law be provided.

Approved, June 26, 1812.

An Act for the more perfect organization of the Army of the United States.

Be it enacted, &c., That the infantry of the Army of the United States shall consist of twenty-five regiments; and that a regiment shall consist of one colonel, one lieutenant colonel, one major, one adjutant, one paymaster, one quartermaster, one surgeon, two surgeons' mates, one quartermaster's sergeant, two principal musicians, and ten companies.

SEC. 2. *And be it further enacted*, That each company shall consist of one captain, one first lieutenant, one second lieutenant, one ensign, four sergeants, six corporals, two musicians, and ninety privates.

SEC. 3. *And be it further enacted*, That to the regiment of cavalry, authorized by the act passed January eleventh, one thousand eight hundred and twelve, entitled "An act to raise an additional military force," there shall be added one riding master; and to the regiment of light dragoons, authorized by the act passed April twelfth, one thousand eight hundred and eight, entitled "An act to raise, for a limited time, an additional military force," one surgeon's mate.

SEC. 4. *And be it further enacted*, That each troop of cavalry, or light dragoons, shall consist of one captain, one first lieutenant, one second lieutenant, one cornet, four sergeants, six corporals, two musicians, one master of the sword, one saddler, one farrier, one blacksmith, and sixty-four privates; and the pay and emolument of a mas-

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ter of the sword shall be the same as those of a riding master; and the pay and emolument of a blacksmith shall be the same as those of a farrier.

SEC. 5. *And be it further enacted*, That the Military Establishment, authorized by law previous to the twelfth day of April, one thousand eight hundred and eight, and the additional military force raised by virtue of the act of the twelfth of April, one thousand eight hundred and eight, be, and the same are hereby, incorporated, and that, from and after the passing of this act, the promotions shall be made through the line of artillerymen, light artillery, dragoons, riflemen, and infantry, respectively, according to established rule.

Approved, June 26, 1812.

An Act to ascertain the western boundary of the tract reserved for satisfying the military bounties allowed to the officers and soldiers of the Virginia Line on Continental Establishment.

Be it enacted, &c., That the President of the United States shall be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint three commissioners, on the part of the United States, to act with such commissioners as may be appointed by the State of Virginia; and the commissioners thus appointed shall have full power and authority to ascertain, survey, and mark, according to the true intent and meaning of the condition, touching the military reservation, in the deed of cession from the State of Virginia to the United States, of the land northwest of the river Ohio, the westwardly boundary line of said reservation, between the little Miami and Scioto rivers.

SEC. 2. *And be it further enacted*, That the commissioners appointed by the United States shall meet at Xenia, in the State of Ohio, on the fifth day of October next, for the purpose of ascertaining the said line, unless otherwise directed by the President of the United States; and in case they shall not be met by commissioners appointed on the part of the State of Virginia, within six days after the said fifth day of October next, the commissioners appointed on the part of the United States shall proceed to ascertain, survey, and distinctly mark, the said boundary line, according to the true intent and meaning of the said act of cession; in measuring the said line, whether accompanied by the commissioners on the part of Virginia, or not, or in case of disagreement, they shall note the intersections, if any, of said line, with any surveys heretofore authorized by the United States, all water courses, the quality of the land over which the line passes, and any other matter which, in their opinion, requires notice. The said commissioners shall make a plat of said line, its intersections, with notes and references, which shall be signed and returned by the said commissioners to the Commissioner of the General Land Office, accompanied by a written report, on or before the fifth day of January next, unless the time of meeting shall have been prolonged by the President of the

United States, who shall lay copies of the same before both Houses of Congress, at their next session.

SEC. 3. *And be it further enacted*, That the commissioners aforesaid shall have power to engage a skilful surveyor, who shall employ chain carriers and a marker, and shall be allowed four dollars for every mile actually surveyed and marked, under direction of the said commissioners, in performance of the duties assigned them; and the commissioners appointed on the part of the United States shall each receive five dollars for each day he shall be necessarily employed in performance of the duties required of them by this act, which compensation to the surveyor and commissioners shall be paid out of any moneys in the Treasury, not otherwise appropriated by law.

SEC. 4. *And be it further enacted*, That until the westwardly boundary line of the said reservation shall be finally established, by the agreement and consent of the United States and the State of Virginia, the boundary line designated by an act of Congress, passed on the twenty-third day of March, one thousand eight hundred and four, shall be considered and held as the proper boundary line of the aforesaid reservation.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Secretary of State to transmit an authenticated copy of this act to the Governor of Virginia, within twenty days after its passage.

Approved, June 26, 1812.

An Act confirming claims to lands in the Mississippi Territory, founded on warrants of survey granted by the British or Spanish Government.

Be it enacted, &c., That every person, and the legal representative of every person, claiming lands in the Mississippi Territory, by virtue of a British or Spanish warrant or order of survey, granted prior to the twenty-seventh day of October, one thousand seven hundred and ninety-five, who were on that day actually resident in the said Territory, and whose claims have been regularly filed with the proper register of the land office east and west of Pearl river, according to law, and reported to Congress, agreeably to the fourth section of the act, entitled "An act concerning the sale of the lands of the United States and for other purposes," passed on the thirty-first day of March, one thousand eight hundred and eight, be, and they are hereby, confirmed in their rights to land so claimed. And the register and receiver of public moneys for the district, within which the lands may lie, are authorized and required to make out, to such claimant or claimants, entitled thereto by the provisions of this act, a certificate of confirmation, for each of which certificates the register and receiver shall each receive one dollar, directed to the Commissioner of the General Land Office; and if it shall appear to the satisfaction of the said Commissioner that such certificates have been fairly obtained, according to the true intent and meaning of this act, then, and in that case, patents shall be granted in

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like manner as is provided by law for the other lands of the United States: *Provided*, That no person shall be entitled to the benefit of this act, who shall not appear by the report made to Congress, as aforesaid, or by the records of the boards of commissioners, for the said Territory, to have been a resident of said Territory, on the twenty-seventh day of October, one thousand seven hundred and ninety-five; nor shall any person be entitled to the benefit thereof, who has received a donation grant from the United States: *Provided, also*, That not more than six hundred and forty acres shall, by virtue of this act, be granted to any one claim.

SEC. 2. *And be it further enacted*, That nothing in this act contained shall be construed to affect the decisions of the courts of justice in the said Territory, heretofore made, respecting the claims, or any part thereof, embraced by the preceding section, or to prevent a judicial decision between the holder of a British patent, legally and fully executed and recorded with the register of the land office east or west of Pearl river, and the persons whose claims are confirmed by the preceding section, where such claims interfere.

Approved, June 30, 1812.

An Act to authorize the issuing of Treasury Notes.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause Treasury notes for such sum or sums as he may think expedient, but not exceeding in the whole the sum of five millions of dollars, to be prepared, signed, and issued, in the manner hereinafter provided.

SEC. 2. *And be it further enacted*, That the said Treasury notes shall be reimbursed by the United States at such places, respectively, as may be expressed on the face of the said notes, one year, respectively, after the day on which the same shall have been issued: from which day of issue they shall bear interest, at the rate of five and two-fifths per centum a year, payable to the owner and owners of such notes, at the Treasury, or by the proper commissioner of loans, at the places and times respectively designated on the face of said notes for the payment of principal.

SEC. 3. *And be it further enacted*, That the said Treasury notes shall be respectively signed, in behalf of the United States, by persons to be appointed for that purpose by the President of the United States: two of which persons shall sign each note, and shall each receive, as a compensation for that service, at the rate of one dollar and twenty-five cents for every hundred notes thus signed by them, respectively; and the said notes shall likewise be countersigned by the commissioner of loans for that State where the notes may respectively be made payable.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, with the approbation of the President of the United States, to cause to be issued such portion of the said Treasury notes as the President may think expedient, in payment of supplies,

or debts due by the United States, to such public creditors, or other persons, as may choose to receive such notes in payment, as aforesaid, at par: And the Secretary of the Treasury is further authorized, with the approbation of the President of the United States, to borrow, from time to time, not under par, such sums as the President may think expedient, on the credit of such notes. And it shall be a good execution of this provision to pay such notes to such bank as will receive the same at par, and give credit to the Treasurer of the United States for the amount thereof, on the day on which the said notes shall thus be issued and paid to such bank or banks respectively.

SEC. 5. *And be it further enacted*, That the said Treasury notes shall be transferable by delivery and assignment endorsed thereon by the person to whose order the same shall, on the face thereof, have been made payable.

SEC. 6. *And be it further enacted*, That the said Treasury notes, wherever made payable, shall be every where received in payment of all duties and taxes laid by the authority of the United States, and of all public lands sold by the said authority. On every such payment, credit shall be given for the amount of both the principal and the interest which, on the day of such payment, may appear due on the note or notes thus given in payment. And the said interest shall, on such payments, be computed at the rate of one cent and one half of a cent per day on every hundred dollars of principal, and each month shall be computed as containing thirty days.

SEC. 7. *And be it further enacted*, That any person making payment to the United States, in the said Treasury notes, into the hands of any collector, receiver, of public moneys, or other public officer or agent, shall, on books kept according to such forms as shall be prescribed by the Secretary of the Treasury, give duplicate certificates of the number and respective amount of principal and interest of each and every Treasury note thus paid by such person; and every collector, receiver of public moneys, or other public officer, or agent, who shall thus receive any of the said Treasury notes in payment, shall, on payment of the same into the Treasury, or into one of the banks where the public moneys are, or may be, deposited, receive credit both for the principal and for the interest, computed as aforesaid, which, on the day of such last mentioned payment, shall appear due on the note or notes thus paid in. And he shall be charged for the interest accrued on such note or notes, from the day on which the same shall been received by him in payment, as aforesaid, to the day on which the same shall be paid by him as aforesaid: *Provided always*, That no such charge or deduction shall be made with respect to any bank into which payments as aforesaid may be made to the United States, either by individuals or by collectors, receivers, or other public officers or agents, and which shall receive the same as specie, and give credit to the Treasurer of the United States for the amount thereof, including the interest accrued and due on such notes, on the day on which the same shall have

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been thus paid into such bank on account of the United States.

SEC. 8. *And be it further enacted*, That the Commissioners of the Sinking Fund be, and they are hereby, authorized and directed to cause to be reimbursed and paid the principal and interest of the Treasury notes, which may be issued by virtue of this act, at the several time and times when the same, according to the provisions of this act, should be thus reimbursed and paid. And the said commissioners are further authorized to make purchases of the said notes, in the same manner as of other evidences of the public debt, and at a price not exceeding par, for the amount of the principal and interest due at the time of purchase on such notes. So much of the funds constituting the annual appropriation of eight millions of dollars, for the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest and such part of the principal of the said debt as the United States are now pledged annually to pay and reimburse, is hereby pledged and appropriated for the payment of the interest, and for the reimbursement or purchase of the principal of the said notes. And so much of any moneys in the Treasury, not otherwise appropriated, as may be necessary for that purpose, is hereby appropriated for making up any deficiency in the funds thus pledged and appropriated for paying the principal and interest as aforesaid.

SEC. 9. *And be it further enacted*, That a sum of twenty thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, be, and the same is hereby, appropriated, for defraying the expense of preparing, printing, engraving, signing, and otherwise incident to the issuing of the Treasury notes authorized by this act.

SEC. 10. *And be it further enacted*, That, if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of or purporting to be a Treasury note aforesaid; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any note issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a Treasury note as aforesaid, knowing the same to be forged or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered Treasury note issued as aforesaid, knowing the same to be falsely altered; every such person shall be deemed and adjudged guilty of felony, and, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a period not less than three years nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

Approved, June 30, 1812.

12th CON. 1st SESS.—74

An Act for imposing additional duties upon all goods, wares, and merchandise, imported from any foreign port or place, and for other purposes.

Be it enacted, &c., That an additional duty of one hundred per centum upon the permanent duties now imposed by law, upon goods, wares, and merchandise, imported into the United States, shall be levied and collected upon all goods, wares, and merchandise, which shall, from and after the passing of this act, be imported into the United States from any foreign port or place.

SEC. 2. *And be it further enacted*, That an addition of ten per centum shall be made to the several duties imposed by this act, in respect to all such goods, wares, and merchandise, as shall, from and after the passing of this act, be imported in ships or vessels not of the United States.

SEC. 3. *And be it further enacted*, That, on all ships or vessels belonging, wholly or in part, to the subjects of foreign Powers, which shall be entered into the United States, or the territories thereof, there shall be paid an additional duty at the rate of one dollar and fifty cents per ton.

SEC. 4. *And be it further enacted*, That the additional duties laid by this act shall be levied and collected in the same manner, and under the same regulations and allowances, as to drawbacks, mode of security, and time of payment, respectively, as are prescribed by law in relation to the duties now in force, on the articles on which the said additional duties are laid by this act.

SEC. 5. *And be it further enacted*, That this act shall continue in force so long as the United States shall be engaged in war with Great Britain, and until the expiration of one year after the conclusion of peace, and no longer: *Provided, however*, That the additional duties laid by this act shall be collected on all such goods, wares, and merchandise, as shall have been previously imported.

Approved, July 1, 1812.

An Act supplementary to an act, entitled "An act more effectually to provide for an organization of the Militia of the District of Columbia."

Be it enacted, &c., That, from and after the passage of this act, the muster of each legion, required to be held by the act to which this is a supplement, in each year, may be held in either the month of October or November, as the commanding officer of the brigade may appoint.

SEC. 2. *And be it further enacted*, That so much of the eleventh section of the act to which this is a supplement, as requires that there shall be a muster of each troop of cavalry and company of militia, comprehending the companies made up by voluntary enrolment, in the months of July, August, and November, and all the twenty-second section of the said act, be, and the same are hereby, repealed.

SEC. 3. *And be it further enacted*, That the battalion courts of inquiry, mentioned in the eighth section of said act, shall be held in the months only of July and November in each year; and the legionary courts of inquiry, mentioned in

the said section, shall be respectively held in not less than ten nor more than twenty days after each battalion court of inquiry; *Provided, however,* That the commanding officer of each legion shall be, and is hereby, empowered to appoint and convene legionary courts extraordinary, which may exercise all or any of the powers, and perform all or any of the duties, of the ordinary legionary courts of inquiry, except the power of assessing fines incurred by the officers of the legion for any delinquency or neglect of duty, other than failing to attend such legionary courts extraordinary.

SEC. 4. *And be it further enacted,* That all fines, to be assessed under the authority of the act last aforesaid, shall be certified by the clerks of the legionary and battalion courts of inquiry, respectively, by which the same shall be assessed, to the marshal of the District of Columbia, and so certified, shall be delivered to the marshal within fifteen days after the sitting of the court empowered finally to determine, and he shall give a receipt therefor. The said marshal shall forthwith proceed to collect the said fines, and (should any person fail to make payment when called on) to levy the amount with costs by distress and sale of the goods and chattels of the delinquent; which costs and manner of proceeding shall be the same as in other cases of distresses. And where there are no goods or chattels to be found, whereon to levy the said fines, the marshal shall commit such delinquent to jail, and hold him in close confinement during the term of twenty-four hours, for each and every fine by him payable, (unless the same shall be sooner paid,) in the same manner as other persons condemned to fine and imprisonment at the suit of the United States may be committed; and the marshal shall account for all the fines, and pay such as have been by him levied, to the paymaster of the legion from which he shall have received the certified lists, within six months after said lists may have been delivered to him, respectively, deducting, from the amount so to be paid, twelve and an half per centum as a compensation for his trouble; and in case of failure, the same shall be recovered by motion in the circuit court of the District of Columbia, in either county of said district, in the name of the paymaster of said legion, with twelve and an half per centum damages, and legal interest on the amount from the time it ought to have been paid, and costs of suit: *Provided,* The marshal shall have had ten days notice of such motion. And should it happen in any case, during the pendency of proceeding and before payment is made by the marshal, that the paymaster in whose name the proceedings are going on, should be removed from his office or station, it shall not abate or in any manner interrupt or affect the proceedings, but the name of the succeeding paymaster may be substituted until the proceedings are formally closed.

SEC. 5. *And be it further enacted,* That, where any fine or fines shall have been collected or imposed, the delinquent shall be at liberty, at any

time within twelve months after such imposition, to apply to any of the legionary courts to return or remit the same; and the court is hereby empowered to make such order in the case as may seem to them, or a majority of them, to be right and just.

SEC. 6. *And be it further enacted,* That squadron courts of inquiry, for the squadron of cavalry within the District of Columbia, shall be separately held within the said District; but whenever a legionary court of inquiry, as heretofore by law directed, shall be held, the cavalry within the limits of the legion for which such court may be held shall be within and subject to its jurisdiction and authority; and the commanding officers of the squadron and companies of cavalry, shall be members of such legionary court for the legion within which they respectively reside: *Provided, however,* That when the cavalry shall have been established or formed into a separate legion, there shall be separate legionary courts held by and for them, at some place within the District; both the squadron and legionary courts of cavalry to be, respectively, for similar purposes, to be appointed and constituted in a similar manner, and to be subject to the same rules and regulations, as the battalion and legionary courts authorized and directed by the act to which this is a supplement.

SEC. 7. *And be it further enacted,* That all orders in relation to the procuring or wearing of such uniform and equipments, or either of them, as shall have been previously determined on, which shall be issued and communicated by the Brigadier General to the officers of the brigade, or any of them, shall be forthwith obeyed; and for every disobedience of any such order, the delinquent shall be subject to the penalty or fine prescribed in the twenty-seventh section of the said act to which this is a supplement, besides being subject to arrest.

SEC. 8. *And be it further enacted,* That the arms and other equipments belonging to an officer, non-commissioned officer, or private, be exempt from taxation or execution.

Approved, July 1, 1812.

An Act to facilitate the transfer of the stock created under an act passed on the tenth of November, one thousand eight hundred and three.

Be it enacted, &c., That the stock created under the act, entitled "An act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic, and making provision for the payment of the same," from and after the passing of this act shall be transferable in the same manner as the other stocks of the United States are or shall be transferable from the books of the Treasury to the books of any commissioner, and from the books of one commissioner to those of another commissioner, or to those of the Treasury.—[Approved, July 1, 1812.]

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An Act conferring certain powers on the Levy Court for the county of Washington, in the District of Columbia.

Be it enacted, &c., That the board of commissioners or levy court for the county of Washington, in the District of Columbia, be, and hereby are, empowered to erect and maintain a penitentiary, to be erected in such place as the mayor, aldermen, and common council of the City of Washington shall designate.

SEC. 2. *And be it further enacted,* That the board of commissioners or levy court for the said county be vested with full power to lay out, straiten, and repair, public roads within the said county, except within the corporate limits of the City of Washington and Georgetown, under the conditions hereinafter prescribed.

SEC. 3. *And be it further enacted,* That the said board or levy court be empowered to lay out and mark roads through any such part of the said county: *Provided,* They shall not exceed one hundred feet in width, and shall not pass through any building, garden, or yard, without the consent of the owner; and a reasonable compensation, if required by the owner, shall be made for the land thus marked and laid out, which shall be fixed in the following manner: On laying out and marking any road, six weeks' notice thereof shall be given in some public print, published in the county. In case any owner of land, through which the said road passes, shall require compensation therefor, he shall within two weeks thereafter apply to the levy court, who may agree with him for the purchase thereof; and in case of disagreement, or in case the owner shall be a feme covert, under age, or non compos, or out of the county, on application to any justice of the county, to be made within two weeks after the expiration of the aforesaid two weeks, the said justice shall issue his warrant, under his hand, to the Marshal of the District of Columbia, commissioning him to summon twelve freeholders, inhabitants of the county, not related to the said owner, nor in any manner interested, to meet on the land to be valued at a day to be expressed in the warrant, of which ten days' notice shall be given by the marshal to the levy court, and to the owner of the said land, or left at his or her place of abode, or given to his or her guardian, if an infant, or, if out the county, by publishing notice thereof, for six weeks in some public print of the county: and the marshal, on receiving the said warrant, shall summon the said jury, and when met, shall administer an oath or affirmation to every jurymen, who shall swear or affirm, as the case may be, that he will justly, faithfully, and impartially, value the land, and all damages the owners thereto will sustain by the road passing through the same, having regard to all circumstances of convenience, benefit, or disadvantage, according to the best of his skill and judgment; and the inquisition thereupon taken shall be signed by the marshal and seven or more of the said jury, and shall be conclusive; and the same shall be returned to the clerk of the county,

to be by him recorded at the expense of the levy court: and the valuation expressed in such inquisition shall be paid by the said levy court to the owner of the land, or his legal representative, before the levy court proceed to open the said road: in case no such application shall be made within the aforesaid periods, the land thus appropriated shall be adjudged to be conclusively condemned, and no compensation be hereafter required therefor.

SEC. 4. *And be it further enacted,* That the board of commissioners or levy court, as soon as they shall have laid out, marked, and opened a road, and complied with the foregoing provisions, shall return the courses, bounds, and plats thereof, to the clerk of the county, to be by him recorded at the expense of the said court; and the said road, so laid out and returned, as aforesaid, shall be thereafter taken, held, and adjudged, a public road and common highway.

SEC. 5. *And be it further enacted,* That in all cases, where stone, gravel, or other material, shall be necessary for making or repairing a road, the levy court may agree with the owner for the purchase thereof, or with the owner of the land on which the same may be, for the purchase of the said land; and in case of disagreement, or in case the owner should be a feme covert, under age, or non compos, or out of the county, on application to a justice of the county, may proceed, in all respects, in the same manner for condemning the said materials for the use of said road, as in like cases where lands are directed to be taken and condemned as aforesaid, and making the said road: and the said parties, respectively, shall have the same benefit and advantage of the said proceedings as they have under and in virtue of the said provision for condemning land herein before mentioned.

SEC. 6. *And be it further enacted,* That if a road shall be carried through any fields of ground in actual cultivation, such fields shall not be laid open, or used as a public road, until after the usual time of taking off crops then growing thereon.

SEC. 7. *And be it further enacted,* That if any person shall alter, or change, or in any manner obstruct, or encroach, on any public road, or cut, destroy, deface, or remove any mile stones, set up on said road, or put or place any rubbish, dirt, logs, or make any pit or hole therein, such person may be indicted in the circuit court of the District of Columbia, and, being convicted thereof, shall be fined or imprisoned in the discretion of the court, according to the nature of the offence.

SEC. 8. *And be it further enacted,* That the board of commissioners or levy court may, for the aforesaid and all other general county purposes, annually lay a tax on all the real and personal property in the said county, except within the limits of the City of Washington, any existing law to the contrary notwithstanding, not exceeding twenty-five cents in the hundred dollars value of said property, for the collection, safekeeping, and disbursement of which they are hereby empowered to appoint the necessary officers, and to use all the means now in force and neces-

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sary for the assessment and collection of taxes in the said county, and to insure a due and regular accountability for the same; and all existing laws, so far as they vest in the said levy court a power to lay taxes, shall be, and the same are hereby repealed.

SEC. 9. *And be it further enacted* That the board of commissioners or levy court shall be, and hereby are, released from any obligation to provide for the support of the poor of any other part of the county of Washington, other than that part without the limits of the City of Washington, to provide for whom they are hereby authorized to lay and collect a special tax, to be imposed on said part of the county.

SEC. 10. *And be it further enacted*, That the board of commissioners or levy court of the county of Washington shall hereafter be composed of seven members, to be designated immediately after the passing of this act, by the President of the United States, from among the existing magistrates of the county, and annually afterwards on the first Monday in May; that is to say, there shall be two members designated from among the magistrates residing in that part of the county lying eastward of Rock creek, and without the limits of the City of Washington; two from among the magistrates residing in that part of the county lying westward of Rock creek, and without the limits of Georgetown. A majority of the members so designated shall constitute a quorum to do business.

SEC. 11. *And be it further enacted*, That the general county expenses and charges, other than for the expenses of roads and bridges out of the limits of Washington and Georgetown, respectively, shall be borne and defrayed by the said City of Washington, and the other parts of the county, equally, that is to say, one moiety of said expenses and charges shall be borne by the city, and paid over to whomsoever the board of commissioners or levy court may appoint as treasurer of the court, and the other moiety by the other parts of the county; which said general expenses shall be ascertained annually by the said board of commissioners or levy court and the corporation of the said city. And, in case of any difference of opinion as to what are or may be properly called general expenses, and applicable to the whole county, agreeably to the provisions of this and other acts relating to the subject, it shall be the duty of the circuit court for the said county, upon joint application, or upon the application of either party, and due notice to the other party, to inquire, determine, and settle, in a summary way, the matter in difference.

SEC. 12. *And be it further enacted*, That the two bridges over Rock creek, immediately between the City of Washington and Georgetown, shall be kept in repair and rebuilt, in like manner as at present, at the joint expense and cost of the said city and Georgetown; and the sums required for such repairs or rebuildings shall, from time to time, be ascertained by the said board of commissioners or levy court for the county, and the amount required from each corporation shall be

paid over, after sixty days' notice, to the treasurer of the county.

SEC. 13. *And be it further enacted*, That it shall and may be lawful, at any time hereafter, for the corporation of the City of Washington, and the corporation of Georgetown, jointly or separately, and at their joint or separate expense, as the case may be, to erect a permanent bridge across Rock creek, and between the two places, at such sites as the corporation first choosing to build shall determine and fix upon; and if it should be necessary to obtain private property on which to fix either or both the abutments of the said permanent bridge or bridges, or for other purposes connected with the work, the said corporation so choosing to build shall have power to agree with the owner or owners for the purchase of such property; and in case of disagreement, or in case the owner shall be a feme covert, under age or non compos, or out of the county, the mayor of the said corporation shall thereupon summon a jury, to be composed of twelve freeholders, inhabitants of the said county, not related to the said owner, nor in any manner interested, who shall meet on the ground to be valued, at a day to be expressed by the mayor in the said summons, of which ten days' notice shall be given by the mayor to the owner or owners of the said ground, or left at his, her, or their place of abode, or given to his, her, or their guardian, if an infant, or, if out of the county, by publishing notice thereof for six weeks in some newspaper printed in the county; and when the jury shall have met, pursuant to the aforesaid summons, each jurymen shall swear or affirm that he will justly, faithfully, and impartially, value all the ground held as private property, and intended and required to be used or occupied by reason of the contemplated erection of the permanent bridge, and the amount of damages the proprietor or proprietors of said ground will sustain, (taking into view, at the same time, the benefits which the said proprietor or proprietors will derive from the erection of the said bridge,) according to the best of his skill and judgment. And the inquisition and valuation thereupon taken shall be signed by the mayor and seven or more of the said jury, and shall be binding and conclusive upon all parties concerned; and the same shall be transmitted to the clerk of the county, to be by him recorded. And the valuation expressed in the aforesaid inquisition shall be paid or tendered to the owner of the ground so condemned, or his or their legal representatives, by the corporation intending to build such bridge, within thirty days after such valuation shall have been made, and before any work is commenced on the grounds so valued.

Approved, July 1, 1812.

An Act giving validity to the sale of certain tracts of public lands sold in the western district of the Territory of Orleans, now State of Louisiana.

Be it enacted, &c., That the sale of the several tracts of public lands sold in the month of January, one thousand eight hundred and twelve, at

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the public sales held under the superintendence of the register of the land office, and the principal deputy surveyor of the western district of the Territory of Orleans (now State of Louisiana) be and the same is hereby made good and valid, to all intents and purposes, any law to the contrary notwithstanding. And the purchasers of the said tracts shall, severally, on completing the payment of the purchase money, according to law, be entitled to receive a patent or patents for the lands so purchased and paid for, as in case of other lands sold by the United States. The first instalment of the purchase money shall be considered as due and payable at ten days after the receiver of public moneys for the district within which the lands lie shall have entered on the discharge of the duties of his office.

Approved, July 1, 1812.

An Act supplementary to "An act authorizing the President of the United States to raise certain companies of Rangers for the protection of the frontier of the United States."

Be it enacted, &c., That the President of the United States be and he is hereby authorized to raise one additional company of rangers, when he may deem it necessary for the public service, under the same provisions, conditions, and restrictions of the act to which this is a supplement.

SEC. 2. *And be it further enacted,* That, for defraying the expenses thereof, the sum of eleven thousand two hundred and fifty dollars be and the same is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, July 1, 1812.

An Act authorizing the President of the United States to lease, for a term of years, any part of the reservations of public ground in the City of Washington.

Be it enacted, &c., That the President of the United States be and he is hereby authorized to take possession of the whole of the reservations of public grounds in the City of Washington, and lease them out, for a term not exceeding ten years on such terms and conditions as in his judgment may best effect the improvement of the said grounds, for public walks, botanic gardens, or other public purposes.

Approved, July 5, 1812.

An Act making an appropriation for the purpose of discharging all the outstanding claims for the construction and repair of the Capitol and the President's House; for the compensation of the late Surveyor of the Public Buildings, and for furniture for the different apartments of the Capitol, and for other purposes.

Be it enacted, &c., That, for the purpose of satisfying all outstanding claims for services performed, and materials furnished for the construction and repair of the Capitol and President's House, including therein the sum of two thousand five hundred dollars for the compensation of

the late Surveyor of the Public Buildings, to the first day of July, one thousand eight hundred and eleven, when his duties in that capacity ceased; for furniture for the different apartments of the Capitol, and for contingent expenses relating thereto, the sum of fourteen thousand five hundred and seventy-three dollars be, and the same is, hereby appropriated, to be applied to the discharge of the claims before mentioned, and to no other purpose whatsoever.

SEC. 2. *And be it further enacted,* That a sum not exceeding one thousand dollars be, and the same is hereby, appropriated for the purpose of enabling the President of the United States to return to their native country the two Italian sculptors lately employed on the public buildings, and to close the original contract made with them on behalf of the United States.

SEC. 3. *And be it further enacted,* That the Superintendent of the City of Washington be authorized to contract for the completion of the sculpture in the south wing of the Capitol, under the direction of the President of the United States, and that the sum of four thousand dollars be appropriated towards defraying the expense of the same.

SEC. 4. *And be it further enacted,* That a sum not exceeding four thousand dollars be, and the same is hereby, appropriated for the completing the sculpture and the work on the galleries of the Senate chamber, the railing of the stairs, and minor works, deficient in the east part of the north wing of the Capitol, and for temporary repairs to the roof.

SEC. 5. *And be it further enacted,* That the aforesaid sums shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, July 5, 1812.

An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to, and receive, pensions, according to the rates, and commencing at the times, herein mentioned; that is to say:

Samuel Allen, at the rate of two dollars per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

Nehemiah Levitt, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth of December, one thousand eight hundred and eleven.

William Powers, at the rate of two dollars and fifty cents per month, to commence on the seventh of January, one thousand eight hundred and twelve.

William Cushing, at the rate of ten dollars per month, to commence on the twenty-fifth of November, one thousand eight hundred and eleven.

William Leaver, alias Lavear, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, one thousand eight hundred and eleven.

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Oliver Russell, at the rate of two dollars and fifty cents per month, to commence on the sixth day of April, one thousand eight hundred and eight.

Joel Fox, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh of February, one thousand eight hundred and eleven.

Isaac Durand, at the rate of two dollars and fifty cents per month, to commence on the thirty-first of August, one thousand eight hundred and eleven.

Aaron Peck, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twentieth of May, one thousand eight hundred and eleven.

Hezekiah Bailey, at the rate of five dollars per month, to commence on the nineteenth of January, one thousand eight hundred and twelve.

Nathan Ford, at the rate of two dollars per month, to commence on the seventeenth of October, one thousand eight hundred and eleven.

Jonas Hobart, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of November, one thousand eight hundred and ten.

John Phillips, at the rate of four dollars per month, to commence on the tenth day of July, one thousand eight hundred and eleven.

Elisha Fanning, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth December, one thousand eight hundred and eleven.

Samuel Leonard, at the rate of two dollars and fifty cents per month, to commence on the ninth day of March, one thousand eight hundred and eleven.

Sylvester Tilton, at the rate of two dollars and fifty cents per month, to commence on the third of February, one thousand eight hundred and twelve.

Mahlon Ford, at the rate of twenty dollars per month, to commence on the seventh day of March, one thousand eight hundred and twelve.

Randolph Clarkson, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of March, one thousand eight hundred and twelve.

Stephen Carter, at the rate of three dollars and seventy-five cents per month, to commence on the sixteenth day of February, one thousand eight hundred and eleven.

George Pierson, at the rate of two dollars per month, to commence on the twenty-seventh January, one thousand eight hundred and twelve.

Andrew Bartle, at the rate of two dollars and fifty cents per month, to commence on the twelfth day of October, one thousand eight hundred and eleven.

Philip Krugh, at the rate of two dollars and fifty cents per month, to commence on the ninth day of December, one thousand eight hundred and eleven.

Andrew Johnson, at the rate of five dollars per month, to commence on the fifteenth day of February, one thousand eight hundred and twelve.

John Harbeson, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twenty-fifth February, one thousand eight hundred and twelve.

Edward Leary, at the rate of five dollars per month, to commence on the first day of August, one thousand eight hundred and eleven.

Daniel McCarty, at the rate of four dollars per month, to commence on the sixteenth February, one thousand eight hundred and eleven.

Thomas Rogers, at the rate of two dollars and fifty cents per month, to commence on the fourth day of April, one thousand eight hundred and eleven.

Reuben Plunket, at the rate of two dollars and fifty cents per month, to commence on the seventh June, one thousand eight hundred and eleven.

James Bridget, at the rate of two dollars and fifty cents per month, to commence on the seventh day of October, one thousand eight hundred and eleven.

Michael Reap, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of April, one thousand eight hundred and eleven.

Henry Weems, at the rate of five dollars per month, to commence on the fifteenth November, one thousand eight hundred and eleven.

Malcom Keys, at the rate of four dollars per month, to commence on the fifteenth November, one thousand eight hundred and eleven.

James Armstrong, at the rate of five dollars per month, to commence on the fifteenth November, one thousand eight hundred and eleven.

John Martin, at the rate of two dollars and fifty cents per month, to commence on the fifteenth day of November, one thousand eight hundred and eleven.

Robert Elder, at the rate of three dollars thirty-three and a third cents per month, to commence on the nineteenth July, one thousand eight hundred and eleven.

Jasper Tomiton, at the rate of two dollars and fifty cents per month, to commence on the tenth day of December, one thousand eight hundred and eleven.

Robert Patterson, at the rate of twenty-five dollars per month, to commence on the twelfth of July, one thousand eight hundred and eleven.

Virgil Poe, at the rate of two dollars and fifty cents per month, to commence on the twenty-third September, one thousand eight hundred and eleven.

John Jacobs, at the rate of five dollars per month, to commence on the fifth July, one thousand eight hundred and eleven.

Thomas Hickman, at the rate of two dollars per month, to commence on the twelfth of January, one thousand eight hundred and twelve.

Joseph Shaw, at the rate of two dollars per month, to commence on the thirteenth January, one thousand eight hundred and twelve.

Joseph Todd, at the rate of two dollars per month, to commence on the fourteenth January, one thousand eight hundred and twelve.

Dennis Laughlan, at the rate of two dollars.

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and fifty cents per month, to commence on the twenty-fourth August, one thousand eight hundred and eleven.

George Adams, at the rate of five dollars per month, to commence on the twenty-ninth January, one thousand eight hundred and twelve.

Samuel Newell, at the rate of eight dollars per month, to commence on the second of March, one thousand eight hundred and eleven.

Thomas Wyatt, at the rate of two dollars and fifty cents per month, to commence on the twenty-fourth of July, one thousand eight hundred and eleven.

Perry Floyd, at the rate of two dollars and fifty cents per month, to commence on the fifteenth of February, one thousand eight hundred and twelve.

John Kirk, at the rate of two dollars and fifty cents per month, to commence on the twenty-first of September, one thousand eight hundred and eleven.

James Crawford, at the rate of six dollars per month, to commence on the twelfth of September, one thousand eight hundred and eleven.

William Haile, at the rate of one dollar sixty-six and two-third cents per month, to commence on the nineteenth of November, one thousand eight hundred and eleven.

Joseph Gilmore, at the rate of one dollar and seventy-five cents per month, to commence on the ninth day of October, one thousand eight hundred and ten.

Ethelred Cobb, at the rate of two dollars and fifty cents per month, to commence on the nineteenth November, one thousand eight hundred and eleven.

John Taylor, at the rate of three dollars and seventy-five cents per month, to commence on the twelfth of March, one thousand eight hundred and twelve.

John Reynolds, at the rate of three dollars per month, to commence on the thirteenth July, one thousand eight hundred and ten.

Henry McFarlane, at the rate of two dollars per month, to commence on the eleventh February, one thousand eight hundred and nine.

John Elliott, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth December, one thousand eight hundred and eleven.

John Williams, at the rate of five dollars per month, to commence on the second March, one thousand eight hundred and twelve.

Thomas Scotland, at the rate of five dollars per month, to commence on the tenth of December, one thousand eight hundred and ten.

Luke Guyant, at the rate of five dollars per month, to commence on the twenty-first September, one thousand eight hundred and nine.

Daniel Evans, at the rate of two dollars and fifty cents per month, to commence on the thirtieth March, one thousand eight hundred and twelve.

Daniel Rady, at the rate of two dollars and fifty cents per month, to commence on the sixteenth April, one thousand eight hundred and six.

John Jordan, at the rate of seven dollars and fifty cents per month, to commence on the fourteenth December, one thousand eight hundred and eleven.

Jacob Seay, at the rate of five dollars per month, to commence on the sixteenth day of October, one thousand eight hundred and eleven.

Amos Lewis, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of October, one thousand eight hundred and eleven.

Benjamin Fry, at the rate of five dollars per month, to commence on the seventeenth day of September, one thousand eight hundred and ten.

Benjamin Codington, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of April, one thousand eight hundred and twelve.

John Johnson, at the rate of three dollars and fifty cents per month, to commence on the sixth day of January, one thousand eight hundred and twelve.

Patrick Coleman, at the rate of five dollars per month, to commence on the twelfth day of April, one thousand eight hundred and ten.

John Garner, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of February, one thousand eight hundred and twelve.

John Bair, at the rate of eight dollars per month, to commence on the eighth day of April, one thousand eight hundred and eleven.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress pursuant to the act for that purpose, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times herein mentioned, and to be instead of the pensions they at present receive, that is to say:

Joshua Haynes, at the rate of four dollars per month, to commence on the sixteenth March, one thousand eight hundred and eleven.

Nathaniel Leavitt, at the rate of five dollars per month, to commence on the sixteenth March, one thousand eight hundred and eleven.

Ebenezer Carlton, at the rate of five dollars per month, to commence on the thirteenth day of January, one thousand eight hundred and twelve.

Robert B. Wilkins, at the rate of five dollars per month, to commence on the twentieth day of January, one thousand eight hundred and eight.

James Crummet, at the rate of five dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and twelve.

Jotham Nute, at the rate of five dollars per month, to commence on the eighth day of September, one thousand eight hundred and eight.

William Warren, at the rate of seven dollars and fifty cents per month, to commence on the fourth of November, one thousand eight hundred and eleven.

Jonathan Stevens, at the rate of two dollars and fifty cents per month, to commence on the sev-

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enth of February, one thousand eight hundred and eleven.

Luke Aldrich, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth of October, one thousand eight hundred and eleven.

Gustavus Aldrich, at the rate of five dollars per month, to commence on the sixteenth of December, one thousand eight hundred and eleven.

Levi Chadburn, at the rate of five dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and twelve.

Stephen Barnum, at the rate of five dollars per month, to commence on the third of July, one thousand eight hundred and ten.

Gershom Donnan, at the rate of five dollars per month, to commence on the third day of July, one thousand eight hundred and ten.

Daniel Bouton, at the rate of fifteen dollars per month, to commence on the fourteenth March, one thousand eight hundred and ten.

Israel Dibble, at the rate of three dollars per month, to commence on the twenty-second of June, one thousand eight hundred and eleven.

Heber Smith, at the rate of five dollars per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Nathan Hawley, at the rate of four dollars per month, to commence on the twenty-second of August, one thousand eight hundred and eleven.

David Hurd, at the rate of five dollars per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Amos Skeel, at the rate of five dollars per month, to commence on the twenty-first of June, one thousand eight hundred and eleven.

Moses Raymond, at the rate of five dollars per month, to commence on the eighth of November, one thousand eight hundred and eleven.

Isaac Buell, at the rate of three dollars and seventy-five cents per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

Ransford Avery Ferris, at the rate of five dollars per month, to commence on the second of March, one thousand eight hundred and twelve.

Azel Woodworth, at the rate of five dollars per month, to commence on the thirteenth of February, one thousand eight hundred and twelve.

Jonathan Woolley, at the rate of five dollars per month, to commence on the sixteenth day of May, one thousand eight hundred and nine.

Joseph Tyler, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Nehemiah Pierce, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Samuel Evers, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Oliver Darling, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Ebenezer McIlvein, at the rate of five dollars

per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Daniel Russell, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Asa Gould, at the rate of five dollars per month, to commence on the sixteenth day of May, one thousand eight hundred and nine.

William Hazletine, at the rate of five dollars per month, to commence on the twelfth day of May, one thousand eight hundred and nine.

Daniel Brown, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Amasa Grover, at the rate of two dollars per month, to commence on the sixteenth day of May, one thousand eight hundred and nine.

Joseph Huntoon, at the rate of thirteen dollars thirty-three and one-third cents per month, to commence on the twenty-second of September, one thousand eight hundred and eight.

Philo Stoddart, at the rate of three dollars thirty-three and one-third cents per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Daniel Staunton, at the rate of three dollars and seventy-five cents per month, to commence on the twelfth day of September, one thousand eight hundred and ten.

Elijah Knight, at the rate of five dollars per month, to commence on the first day of August, one thousand eight hundred and nine.

Nicholas Barth, alias Barrette, at the rate of eleven dollars and twenty-five cents per month, to commence on the twenty-fourth day of January, one thousand eight hundred and twelve.

Aaron Stiles, at the rate of five dollars per month, to commence on the sixteenth of November, one thousand eight hundred and eleven.

Morris De Camp, at the rate of four dollars per month, to commence on the seventeenth of April, one thousand eight hundred and twelve.

Ambrose Lewis, at the rate of three dollars and seventy-five cents per month, to commence on the ninth of March, one thousand eight hundred and eleven.

Approved, July 5, 1812.

An Act confirming grants to lands in the Mississippi Territory, derived from the British Government of West Florida, not subsequently regranted by the Government of Spain or of the United States.

Be it enacted, &c., That citizens of the United States claiming lands in the Mississippi Territory, by virtue of grants legally and fully executed, derived from the British Government of West Florida, whose lands have not been subsequently regranted by the Spanish Government, or claimed in right of donation or pre-emption certificates granted by the Boards of Commissioners east and west of Pearl river, and whose claims have been regularly filed, according to law, with the proper register of the land office in the said Territory, and are embraced in the report of the Commissioners laid before Congress, accord-

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ing to law, be, and they are hereby, confirmed in their respective claims, according to the said grants: *Provided*, That nothing in any law of the United States shall be construed to prevent a judicial decision of controversies under the respective claims aforesaid.

Approved, July 5, 1812.

An Act to admit the entry of vessels of the United States on certain conditions.

Be it enacted, &c., That it shall be lawful to admit to entry any vessel or vessels of the United States which may have been laden in any of the ports of India, and whose master, supercargo, or owner, may have been compelled to give bond, under penalty, that their respective cargoes shall be landed in some port of the United States: *Provided*, That the duties on such cargoes be secured or paid agreeably to law, and their cargoes be deposited in public stores, under the care of the collector of the port where such vessel or vessels may arrive, there to remain at the risk and charge of the owner or owners thereof, subject to the future disposition of Government in relation to the said vessels and cargoes.

Approved, July 5, 1812.

An Act making a further appropriation for the defense of the maritime frontier, and for the support of the Navy of the United States.

Be it enacted, &c., That the sum of five hundred thousand dollars be, and the same is hereby, appropriated, in addition to the sums already appropriated, for the purpose of fortifying and defending the ports, harbors, and maritime frontier of the United States.

SEC. 2. *And be it further enacted*, That, for the support of the Navy of the United States, the following sums, in addition to the sums heretofore appropriated for that object, be, and the same is hereby, appropriated, that is to say:

For the purpose of putting and keeping in service, when repaired, the frigates *Constellation*, *Chesapeake*, and *Adams*, seventy-one thousand two hundred and fifty dollars.

For the repairs of vessels which may be damaged in action with the enemy, or by the other operations of war, four hundred thousand dollars.

For the purpose of purchasing, equipping, and putting into service, and keeping and employing therein, such vessels of war, as may be captured from the enemy by the vessels of war of the United States, as in the opinion of the President of the United States shall be calculated for the public service, four hundred and twenty-eight thousand seven hundred and fifty dollars.

SEC. 3. *And be it further enacted*, That no part of the several sums hereby appropriated shall be applied to any other purpose than those above specified, anything contained in any act of Congress to the contrary notwithstanding.

SEC. 4. *And be it further enacted*, That the several sums hereby appropriated shall be paid out of any moneys in the Treasury not otherwise appropriated.—[Approved, July 5, 1812.]

An Act authorizing the Secretary of the Treasury to suspend the payment of certain bills drawn by John Armstrong, late Minister of the United States at the Court of France, upon the Treasury of the United States.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and required to cause to be suspended the payment, at the Treasury of the United States, of certain bills drawn by John Armstrong, late Minister of the United States at the Court of France, in favor of the cashier of the French Treasury, amounting to one hundred and fifteen thousand five hundred and thirty-four francs and forty-one hundredths of a franc, for certain claims arising under the Louisiana Convention in favor of citizens of the United States, which the French Government, by virtue of an agreement entered into with the said Minister, had assumed to pay, until satisfactory proof shall have been exhibited to the accounting officers of the Treasury, that the said bills, or a sum equal thereto, have been applied for the purpose of discharging the claims of citizens of the United States against the Government of France, which have been liquidated and awarded to them under the provisions of the Convention of the thirtieth day of April, in the year of our Lord one thousand eight hundred and three, between the United States and the French Republic.

Approved, July 6, 1812.

An Act to compensate for his services the President pro tempore of the Senate, acting as such when the office of Vice President of the United States shall be vacant.

Be it enacted, &c., That the President pro tempore of the Senate who has acted, or may hereafter act as such when the office of Vice President shall be vacant, shall receive, during the period of his services, the same compensation as is allowed by law to the Speaker of the House of Representatives.

An Act for the safe-keeping and accommodation of prisoners of war.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements for the safe-keeping, support, and exchange, of prisoners of war, as he may deem expedient, until the same shall be otherwise provided for by law; and, to carry this act into effect, one hundred thousand dollars be, and the same are hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, July 6, 1812.

An Act to prohibit American vessels from proceeding to, or trading with, the enemies of the United States, and for other purposes.

Be it enacted, &c., That no ship or vessel, owned in whole or in part by a citizen or citizens of the United States, shall be permitted to clear out or

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depart from any port or place within the limits of the United States or territories thereof, to any foreign port or place, till the owners, agent, factor, freighter, master, or commander, shall have given bond, with sufficient security, in the amount of such ship or vessel and cargo, not to proceed to, or trade with, the enemies of the United States. And if any ship or vessel, owned as aforesaid, shall depart from any port or place within the limits of the United States or territories thereof, for any foreign port or place, without giving bond with security aforesaid, such ship or vessel, and cargo, shall be forfeited to the use of the United States; and the owner or owners, freighter, factor, or agent, master, or commander, shall severally forfeit and pay a sum equal to the value of such ship or vessel and cargo; and the said master or commander, if privy thereto, and being thereof convicted, shall be liable to a fine not exceeding one thousand dollars, and imprisoned for a term not exceeding twelve months, in the discretion of the court.

SEC. 2. *And be it further enacted*, That if any citizen or citizens of the United States, or person inhabiting the same, shall transport, or attempt to transport, over land or otherwise, in any wagon, cart, sleigh, boat, or otherwise, naval or military stores, arms, or the munitions of war, or any article of provision, from any place of the United States, to any place in Upper or Lower Canada, Nova Scotia, or New Brunswick, the wagon, cart, sleigh, boat, or the thing by which the said naval or military stores, arms, or munitions of war, or articles of provision, are transported or attempted to be transported, together with such naval or military stores, arms, or munitions of war, or provisions, shall be forfeited to the use of the United States, and the person or persons aiding or privy to the same shall severally forfeit and pay to the use of the United States a sum equal in value to the wagon cart, sleigh, boat, or thing by which the said naval or military stores, arms, or munitions of war, or articles of provision, are transported, or are attempted to be transported, and shall moreover be considered as guilty of a misdemeanor, and be liable to be fined, in a sum not exceeding five hundred dollars, and imprisoned for a term not exceeding six months, in the discretion of the court: *Provided*, That nothing herein contained shall extend to any transportation for the use or on account of the United States, or the supply of its troops or armed force.

SEC. 3. *And be it further enacted*. That the collectors of the several ports of the United States be, and the same are hereby, authorized to seize and stop naval or military stores, arms, or the munitions of war, or any articles of provision, and ship or vessel, wagon, cart, sleigh, boat, or thing by which any article prohibited as aforesaid is shipped or transported, or attempted to be shipped or transported, contrary to the provision, of this act.

SEC. 4. *And be it further enacted*, That no ship or vessel belonging to any citizen or citizens, subject or subjects, of any State or Kingdom

in amity with the United States, except such as, at the passage of this act, shall belong to the citizen or citizens, subject or subjects, of such State or Kingdom, or which shall hereafter be built in the limits of a State or Kingdom in amity with the United States, or purchased by a citizen or citizens, subject or subjects, of a State or Kingdom in amity with the United States aforesaid, from a citizen or citizens of the United States, shall be admitted into any port or place of the United States, unless forced by stress of weather, or for necessary repairs; and any ship or vessel, belonging to a citizen or citizens, subject or subjects, of any State or Kingdom in amity with the United States, as aforesaid, except such ships and vessels as are above excepted, which shall, from and after the first day of November next, enter, or attempt to enter, any port or place aforesaid, the same, with her cargo, shall be forfeited to the use of the United States.

SEC. 5. *And be it further enacted*, That any British packet or vessel with despatches destined for the United States, and which shall have departed from any port or place in the United Kingdom of Great Britain and Ireland, or its dependencies, on or before the first day of September next, shall not be liable to be captured or condemned, but the same shall be permitted to enter and depart from any port or place in the United States: *Provided*, That nothing herein contained shall be construed to affect any cartel, or vessel with flag of truce.

SEC. 6. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to give, at any time within six months after the passage of this act, passports for the safe transportation of any ship or other property belonging to British subjects, and which is now within the limits of the United States.

SEC. 7. *And be it further enacted*, That every person being a citizen of the United States, or residing therein, who shall receive, accept, or obtain, a license from the Government of Great Britain, or any officer thereof, for leave to carry any merchandise, or send any armed vessel into any port or place within the dominions of Great Britain, or to trade with any port or place, shall, on conviction for every such offence, forfeit a sum equal to twice the value of any such ship, merchandise, or articles of trade, and shall moreover be deemed guilty of a misdemeanor, and be liable to be imprisoned, not exceeding twelve months, and to be fined, not exceeding one thousand dollars.

Approved, July 6, 1812.

An Act supplementary to an act, entitled "An act respecting alien enemies."

Be it enacted, &c., That nothing in the proviso contained in the act, entitled "An act respecting alien enemies," approved on the sixth day of July, one thousand seven hundred and ninety-eight, shall be extended or construed to extend to any treaty, or to any article of any treaty, which shall have expired, or which shall not be

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in force, at the time when the proclamation of the President shall issue.

Approved, July 6, 1812.

An Act making additional appropriations for the Military Establishment, and for the Indian Department, for the year one thousand eight hundred and twelve.

Be it enacted, &c., That, for defraying the expenses incurred, and to be incurred, under the several acts, entitled "An act to establish a Quartermaster's Department, and for other purposes," and an act to amend the same, "An act making further provision for the Corps of Engineers," and "An act making further provision for the Army of the United States," for the Indian Department, and for satisfying certain outstanding claims, there be, and hereby is, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, in addition to the sums already appropriated for the said objects, respectively, the following sums, that is to say:

For the pay of the Army, seventy-two thousand five hundred and ninety-six dollars.

For forage, four thousand seven hundred and twenty-two dollars.

For subsistence, six thousand two hundred and fifty dollars.

For clothing, three thousand seven hundred and forty-five dollars.

For clerk hire and stationery, in the offices of the Quartermaster General and Commissary General of Purchases, three thousand one hundred and fifty dollars.

For the salary of the Commissary General of Purchases, and compensations of the deputy commissaries, six thousand five hundred dollars.

For contingent expenses of the Indian Department, comprising the employment of temporary agents, presents to the Indians, and transportation, twenty thousand dollars.

For the payment of such balances as have been or may be ascertained from actual settlements made by the Accountant of the Department of War, and which cannot be discharged out of any existing appropriations, five thousand dollars.

Approved, July 6, 1812.

An Act fixing the time for the next meeting of Congress.

Be it enacted, &c., That, after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of November next.

Approved, July 6, 1812.

An Act respecting the pay of the Army of the United States.

Be it enacted, &c., That the officers, non-commissioned officers, musicians, and privates, of the Army of the United States, shall receive the same pay, forage, rations, clothing, and other

emoluments, as the officers of the same grade and corps, non-commissioned officers, musicians, and privates, are entitled to by the act, entitled "An act to raise for a limited time an additional military force," passed April twelfth, one thousand eight hundred and eight; and to the aid-de-camp of a brigadier, to a brigade quartermaster, brigade inspector, and adjutant, there shall be allowed forage for one horse only, or, in lieu thereof, ten dollars per month; and to the brigade majors, under the act passed January the eleventh, one thousand eight hundred and twelve, there shall be allowed forage for one horse, or, in lieu thereof, ten dollars per month; and the pay of a quartermaster sergeant shall be nine dollars per month.

Approved, July 6, 1812.

An Act supplementary to the act, entitled "An act giving further time to the purchasers of public lands, northwest of the river Ohio, to complete their payments."

Be it enacted, &c., That the provisions of the act to which this act is a supplement shall be, and they are hereby, extended to the several purchasers of the fractional sections, which were, by the direction of the Secretary of the Treasury, classed together for sale, according to the ninth section of an act, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," passed on the twentieth of March, one thousand eight hundred and four, notwithstanding the quantity of land contained in any one tract, composed of such fractional sections, so classed together, and purchased by a single contract, shall exceed six hundred and forty acres.

SEC. 2. *And be it further enacted,* That the assignee or assignees of any original purchaser of land from the United States, the lands being purchased prior to the first day of April, one thousand eight hundred and eight, shall be entitled to the benefit of the provisions of the act to which this act is a supplement, and the last preceding section, in every case where it shall appear, to the satisfaction of the register and receiver of public moneys of the district within which the land may lie, that the assignment by which he or they so claim was, *bona fide*, made prior to the passing of the aforesaid act, that the whole lands claimed by virtue of such assignment does not exceed six hundred and forty acres, unless it comes within the provision of the preceding section, and that the lands, or some one tract thereof, is inhabited and cultivated by or for the use of the assignee or assignees.

SEC. 3. *And be it further enacted,* That, in every case where any tract or tracts of land, purchased prior to the first day of April, one thousand eight hundred and eight, not exceeding six hundred and forty acres, unless such tract shall come within the provision of the first section of this act, has, since the first day of April last, reverted, or that may, before the first day of August next, revert to the United States, for default of

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payment; the person or persons claiming such tract or tracts, whether as an assignee or an original purchaser, may again re-enter the same: and all moneys which such assignee or original purchaser may have paid shall be replaced to his credit, by the register and receiver of public moneys of the district in which the lands may lie, and such repurchaser or repurchasers shall be allowed the same benefit of the extension of the time of payment, provided by the act to which this is a supplement, as though no such reversion had occurred; provided such assignee or assignees, original purchaser, or purchasers, shall make, to the proper land officer, application for such re-entry on or before the first day of September next, and that the lands so re-entered shall not have been resold previous to such application.

Approved, July 6, 1812.

An Act authorizing a subscription for the old six per cent. and deferred stocks, and providing for an exchange of the same.

Be it enacted, &c., That a subscription to the full amount of the old six per cent. and deferred stocks be, and the same is hereby, proposed to the proprietors thereof; for which purpose books shall be opened at the Treasury of the United States, and by the several Commissioners of Loans, on the first day of October next, to continue open till the seventeenth day of March ensuing, inclusively, the fourteen last days of each quarter excepted, for such part of the above-mentioned stocks as shall, on the day of subscription, stand on the books of the Treasury and of the several Commissioners of Loans, respectively; which subscription shall be effected by a transfer to the United States, in the manner provided by law for such transfers, of the credit or credits standing on the said books, and by a surrender of the certificates of the stock subscribed.

SEC. 2. *And be it further enacted,* That, for such part of the amount of old six per cent. or deferred stock, thus subscribed, as shall remain unredeemed on the day of such subscription, credits shall be entered to the respective subscribers, on the books of the Treasury or of the Commissioners of Loans, where such subscription shall have been made, and the subscriber or subscribers shall be entitled to receive a certificate or certificates purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to the unredeemed amount of the old six per cent. or deferred stocks, subscribed as aforesaid, bearing an interest of six per centum per annum, payable quarter yearly, from the first day of the quarter during which such subscription shall have been made, transferable in the same manner as is provided by law for the transfers of the stock subscribed, and subject to redemption at the pleasure of the United States, at any time after the thirty-first day of December, one thousand eight hundred and twenty-four: *Provided,* That no reimbursement shall be made, except for the whole amount of the stock standing at the

time, to the credit of any proprietor, on the books of the Treasury, or of the Commissioners of Loans, respectively, nor till after at least six months' previous public notice of such intended reimbursement.

SEC. 3. *And be it further enacted,* That the same funds which heretofore have been, and now are pledged by law for the payment of the interest and for the redemption or reimbursement of the stock which may be subscribed by virtue of the provisions of this act, shall remain pledged for the payment of the interest accruing on the stock created by reason of such subscription, and for the redemption or reimbursement of the principal of the same. It shall be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund, yearly and every year, such sum and sums as may be annually wanted to discharge the annual interest accruing on the stock which may be created by virtue of this act. The said Commissioners are hereby authorized to apply, from time to time, such sum and sums out of the said fund as they may think proper, towards redeeming, by purchase, or by reimbursement, in conformity with the provisions of this act, the principal of the said stock. And such part of the annual sum of eight millions of dollars, vested by law in the said Commissioners, as may be necessary and wanting for the above purposes, shall be and continue appropriated to the payment of interest and redemption of the public debt, until the whole of the stock which may be created under the provisions of this act shall have been redeemed or reimbursed.

SEC. 4. *And be it further enacted,* That nothing in this act contained shall be construed in anywise to alter, abridge, or impair, the rights of those creditors of the United States who shall not subscribe to the loan to be opened by virtue of this act.

Approved, July 6, 1812.

An Act supplementary to the act, entitled "An act authorizing a loan for a sum not exceeding eleven millions of dollars."

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to employ, with the approbation of the President of the United States, an agent or agents for the purpose of selling, in conformity with the provisions of the act, entitled "An act authorizing a loan for a sum not exceeding eleven millions of dollars," any part of the stock created by virtue of the said act. A commission, not exceeding one eighth of one per cent. on the amount thus sold, may, by the Secretary of the Treasury, be allowed to such agent or agents; and a sum not exceeding five thousand five hundred dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, is hereby appropriated for paying the amount of such commission or commissions as may be thus allowed.

Approved, July 6, 1812.

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An Act making further provision for the Army of the United States, and for other purposes.

Be it enacted, &c., That the President of the United States be and he is hereby authorized, by and with the advice and consent of the Senate, to appoint two Brigadier Generals, in addition to those already authorized by law, who shall each be entitled to the same number of Aids and Brigade Majors as are allowed to a Brigadier General under the act of Congress, passed the eleventh of January, one thousand eight hundred and twelve. And the said Brigadier Generals, Aids, and Brigade Majors, shall be entitled to receive the same pay and emoluments as are by law allowed to officers of the same grade.

SEC. 2. *And be it further enacted,* That to any Army of the United States, other than that in which the Adjutant General, Inspector General, Quartermaster General, and Paymaster of the Army, shall serve, it shall be lawful for the President to appoint one Deputy Adjutant General, one Deputy Inspector General, and one Deputy Paymaster General, who shall be taken from the line of the Army, and who shall each, in addition to his pay and other emoluments, be entitled to fifty dollars per month, which shall be in full compensation for his extra services. And that there shall be to each of the foregoing deputies such number of assistant deputies (not exceeding three to each department) as the public service may require, who shall in like manner be taken from the line, and who shall each be entitled to thirty dollars per month, in addition to his pay and other emoluments, which shall be in full compensation for his extra services: *And provided, also,* That the President of the United States be and he is hereby authorized to appoint any of the officers, named in this act, during the recess of the Senate, to be submitted to the Senate at their next meeting, for their advice and consent.

SEC. 3. *And be it further enacted,* That all letters and packages to and from the Adjutant General and Inspector General shall be free from postage.

SEC. 4. *And be it further enacted,* That the President is hereby authorized to confer brevet rank on such officers of the Army as shall distinguish themselves by gallant actions or meritorious conduct, or who shall have served ten years in any one grade: *Provided,* That nothing herein contained shall be so construed as to entitle officers so breveted to any additional pay or emoluments, except when commanding separate posts, districts, or detachments, when they shall be entitled to, and receive, the same pay and emoluments to which officers of the same grades are now or hereafter may be allowed by law.

SEC. 5. *And be it further enacted,* That the officers who shall not take waiters from the line of the Army, shall receive the pay, clothing, and subsistence, allowed to a private soldier, for as many waiters as they may actually keep, not exceeding the number allowed by existing regulations.

Approved, July 6, 1812.

An Act supplementary to the act, entitled "An act authorizing the President of the United States to accept and organize certain volunteer military corps."

Be it enacted, &c., That, in all cases where volunteers have offered, or shall hereafter offer, their services to the United States, under the act, entitled "An act authorizing the President of the United States to accept and organize certain volunteer military corps," it shall be lawful for the President of the United States to appoint and commission officers thereto, by and with the advice and consent of the Senate, anything in the said act to the contrary notwithstanding: *Provided,* That, prior to the issuing of such commissions, the volunteers aforesaid shall have signed an enrollment binding themselves to service, conformably to the provisions of the act to which this is a supplement.

SEC. 2. *And be it further enacted,* That the President be and he is hereby authorized to form the corps of volunteers into battalions, squadrons, regiments, brigades, and divisions, and to appoint thereto, by and with the advice and consent of the Senate, general, field, and staff officers, conformably with the Military Establishment of the United States, and who shall be entitled to the pay and emoluments of officers of a similar grade and corps in the Army of the United States.

SEC. 3. *And be it further enacted,* That it shall be lawful for the President of the United States, in the recess of the Senate, to appoint all the officers authorized by this act; which appointments shall be submitted to the Senate, at their next session, for their advice and consent.

SEC. 4. *And be it further enacted,* That, in case the volunteers, when their term of service shall have expired, shall deliver their stand of arms and accoutrements, in good order, to the proper officer, they shall be entitled to receive, in lieu thereof, ten dollars for every stand of arms so delivered.

Approved, July 6, 1812.

Resolution granting permission to the Judges of the Supreme Court of the United States to use the books in the Library of Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and the Speaker of the House of Representatives for the time being be, and they are hereby, authorized to grant the use of the books in the Library of Congress to the Judges of the Supreme Court of the United States, at the times, and on the same terms, conditions, and restrictions, as members of Congress are allowed to use said books.

Approved, March 2, 1812.

Resolution on the subject of Arts and Manufactures

Resolved, &c., That the Secretary of the Treasury be directed to employ a person to digest, and reduce to such form as shall be deemed most conducive to the interests of the United States, a statement of the number, nature, extent, situation, and value, of the arts and manufactures of the

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United States, together with such other details, connected with these subjects, as can be made from the abstracts and other documents and returns reported to him by the marshals and other persons employed to collect information in conformity to the second section of the act of the first of May, one thousand eight hundred and ten, and such other information as has been or may be obtained, which the subject will admit of; and that he report the same to Congress.

Approved, March 19, 1812.

Resolution requesting the State of Georgia to assent to the formation of two States of the Mississippi Territory.

Resolved, &c., That the Legislature of the State of Georgia be and they are hereby requested to give their assent, by law, to the formation of two States of the Mississippi Territory: *Provided*, In the opinion of Congress a division of said Territory for that purpose should hereafter be expedient.—[Approved, June 17, 1812.]

Resolution requesting the President of the United States to recommend a day of public humiliation and prayer.

It being a duty, peculiarly incumbent in a time of public calamity and war, humbly and devoutly to acknowledge our dependence on Almighty God, and to implore his aid and protection: Therefore,

Resolved, &c., That a joint committee of both Houses wait on the President of the United States, and request that he recommend a day of public humiliation and prayer to be observed by the people of the United States, with religious solemnity, and the offering of fervent supplications to Almighty God for the safety and welfare of these States, his blessing on their arms, and the speedy restoration of peace.

H. CLAY,

Speaker of the House of Representatives.

WM. H. CRAWFORD,

President of the Senate, pro tempore.